



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 4, 2008

Mr. John C. West  
General Counsel  
Office of the Inspector General  
Texas Department of Criminal Justice  
P.O. Box 13084  
Austin, Texas 78711

OR2008-04528

Dear Mr. West:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID #306452.

The Texas Department of Criminal Justice's Office of the Inspector General (the "OIG") received a request for all information related to a specified use of force investigation. You state that you will release basic information related to the specified use of force investigation to the requestor with redactions pursuant to the previous determination issued by this office in Open Records Letter No. 2005-01067 (2005); *see* Gov't Code § 552.029(8) (requiring basic information regarding an incident involving the use of force against an inmate to be released).<sup>1</sup> You also state that you are withholding social security numbers under section 552.147 of the Government Code.<sup>2</sup> You claim that the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.134 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

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<sup>1</sup>Open Records Letter No. 2005-01067 authorizes the Texas Department of Criminal Justice (the "department") to withhold the present and former home addresses and telephone numbers, social security numbers, and family member information of current or former employees of the department under section 552.117(a)(3) of the Government Code without the necessity of requesting an attorney general decision with regard to the applicability of that exception. *See* Gov't Code § 552.301(a); Open Records Decision No. 673 at 7-8 (2001).

<sup>2</sup>Section 552.147(b) authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

Section 552.134 of the Government Code relates to inmates of the department. This exception provides in relevant part:

[e]xcept as provided by Subsection (b) or by Section 552.029 [of the Government Code], information obtained or maintained by the [department] is excepted from [required public disclosure] if it is information about an inmate who is confined in a facility operated by or under a contract with the department.

Gov't Code § 552.134(a). Section 552.029 of the Government Code provides in part:

[n]otwithstanding . . . Section 552.134, the following information about an inmate who is confined in a facility operated by or under a contract with the [department] is subject to required disclosure under Section 552.021:

...  
(8) basic information regarding the death of an inmate in custody, an incident involving the use of force, or an alleged crime involving the inmate.

*Id.* § 552.029(8). Thus, the legislature explicitly made section 552.134 subject to section 552.029. We conclude that section 552.134(a) is generally applicable to the information submitted by the OIG. As you acknowledge, however, the information in question pertains to a use of force investigation. The OIG must release basic information about use of force incidents under section 552.029(8). The basic information that must be released includes the time and place of the incident, the names of inmates and of department employees who were involved, a brief narrative of the incident, a brief description of any injuries sustained by anyone involved, and information regarding any criminal charges or disciplinary actions that were filed as a result of the incident. With the exception of basic information, which you state you have released, the OIG must withhold the submitted information under section 552.134 of the Government Code.<sup>3</sup>

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the

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<sup>3</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure.

governmental body wants to challenge this ruling, the governmental body must file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

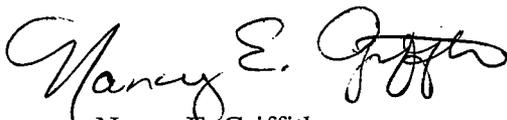
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can challenge that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Nancy E. Griffiths  
Assistant Attorney General  
Open Records Division

NEG/jb

Ref: ID# 306452

Enc. Submitted documents

c: Mr. Philip Rucker  
8701 Rowen Court  
Needville, Texas 77461  
(w/o enclosures)