



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 23, 2008

Ms. Patricia Fleming  
Assistant General Counsel  
Office of the General Counsel  
Texas Department of Criminal Justice  
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Mr. John C. West  
General Counsel  
Office of the Inspector General  
Texas Department of Criminal Justice  
P.O. Box 13084  
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OR2008-05377

Dear Ms. Fleming and 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# 308230.

The Texas Department of Criminal Justice (the "department") received a request for all records, incident reports, and documentation pertaining to healthcare services and treatments provided to a named department inmate who died in custody, as well as any employment records and incident reports pertaining to a named individual. The department's Office of the General Counsel (the "OGC") and Office of the Inspector General (the "OIG") have submitted separate briefs and separate documents that each seeks to withhold from disclosure. The OGC states that some of the requested information will be provided to the requestor, but claims that the information it has submitted is excepted from disclosure under sections 552.101 and 552.134 of the Government Code. The OIG states that it will release some of the requested information to the requestor with redactions pursuant to the previous

determination issued by this office in Open Records Letter No. 2005-01067 (2005).<sup>1</sup> The OIG claims that the information it has submitted is excepted from disclosure under sections 552.101 and 552.134 of the Government Code. We have considered the submitted arguments and reviewed the submitted information.

Section 552.134(a) of the Government Code relates to inmates of the department and provides the following:

Except as provided by Subsection (b) or by Section 552.029 [of the Government Code], information obtained or maintained by the Texas Department of Criminal Justice 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 552.134 is explicitly made subject to section 552.029, which provides in relevant part the following:

Notwithstanding . . . 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:

(1) the inmate's name, identification number, age, birthplace, department photograph, physical description, or general state of health or the nature of an injury to or critical illness suffered by the inmate;

...

(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(1), (8). Upon review, we agree that the submitted information constitutes information about an inmate for purposes of section 552.134. We note, however, that the submitted information includes the deceased inmate's department photograph and pertains to the inmate's death while in the department's custody. The department must release the inmate's department photograph and basic information about her death in custody pursuant

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<sup>1</sup>Open Records Letter No. 2005-01067 (2005) serves as a previous determination that the present and former home addresses and telephone numbers, social security numbers, and family member information of current or former employees of the department, regardless of whether the current or former employee complies with section 552.1175 of the Government Code, are excepted from disclosure under section 552.117(a)(3) of the Government Code.

to section 552.029. With the exception of the inmate's department photograph and basic information, the department must withhold the submitted information pursuant to section 552.134 of the Government Code. As our ruling is dispositive for this information, we need not consider the remaining arguments against disclosure.

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 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).

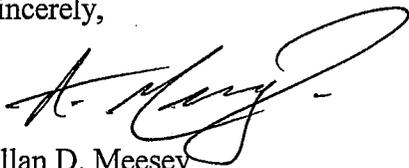
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can challenge that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

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,



Allan D. Meesey  
Assistant Attorney General  
Open Records Division

ADM/eeg

Ref: ID# 308230

Enc. Submitted documents

c: Mr. Breck Harrison  
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(w/o enclosures)