



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 1, 2010

Mr. John C. West  
General Counsel  
Office of the Inspector General  
Texas Department of Criminal Justice  
4616 Howard Lane, Suite 250  
Austin, Texas 78728

OR2010-01510

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# 368936 (OIG ORR File #OR-2009-00316).

The Texas Department of Criminal Justice's (the "department") Office of the Inspector General (the "OIG") received a request for reports, medical records, audio and video recordings, pictures, and telephone calls pertaining to a named inmate's death on October 31, 2009. You have released the Criminal Case Information Worksheet, Custodial Death Report, Inquest Report, and Order for Autopsy from the responsive OIG case file number 2009-03623, with social security numbers redacted pursuant to the previous determination issued to the department in Open Records Letter No. 2005-1067 (2005)<sup>1</sup> and section 552.147 of the Government Code.<sup>2</sup> You also state the OIG plans to release basic information to the requestor. *See* Gov't Code § 552.108(c) (basic information about an arrested person, and arrest, or a crime is not excepted under section 552.108); *see also* Open Records Decision No. 127 (1976) (summarizing types of information considered basic

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<sup>1</sup>Open Records Letter No. 2005-1067 authorizes the department to withhold the present and former home addresses and telephone numbers, social security numbers, and family member information of its current or former employees under section 552.117(a)(3) of the Government Code, regardless of whether the current or former employee complies with section 552.1175 of the Government Code, without the necessity of requesting a decision under the Act. *See* Open Records Decision No. 673 (2001) (listing elements of first type of previous determination under section 552.301(a)).

<sup>2</sup>One of the social security numbers in the released information relates to a deceased individual. Section 552.147(b) of the Government Code only authorizes the redaction of a living person's social security number. *See* Gov't Code § 552.147(b). Accordingly, the OIG must release the social security number of the deceased individual.

information). You claim the remainder of case file number 2009-03623 is excepted from disclosure under sections 552.101, 552.108, 552.130, and 552.134 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(a)(1) of the Government Code excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime.” Gov’t Code § 552.108(a)(1). A governmental body claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* § 552.301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state case file number 2009-03623 is an open criminal investigation by OIG investigators, and that release of anything other than basic information would seriously compromise the investigation. Based on your representations and our review, we determine release of Exhibit C would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). Accordingly, the OIG may withhold Exhibit C pursuant to section 552.108(a)(1) of the Government Code.<sup>3</sup>

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Bob Davis  
Assistant Attorney General  
Open Records Division

RSD/cc

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

Ref: ID# 368936

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)