



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 12, 2012

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

OR2012-05256

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# 450421 (OIG Request No. 2012-00014).

The Texas Department of Criminal Justice's Office of the Inspector General (the "OIG") received a request for the death report of a specified individual and all OIG policies and procedures. You state you have released or will release some of the requested information with information redacted pursuant to Open Records Letter No. 2005-01067<sup>1</sup> and section 552.147 of the Government Code.<sup>2</sup> You state the OIG has submitted for review all the responsive information it has in its possession.<sup>3</sup> You claim portions of the remaining submitted information are excepted from disclosure under sections 552.101, 552.102, 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 is a previous determination issued to the Texas Department of Criminal Justice authorizing it to withhold information relating to its current or former employees under section 552.117(a)(3) without the necessity of requesting a decision from this office under the Act.

<sup>2</sup>Section 552.147(b) of the Government Code 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. Gov't Code § 552.147(b).

<sup>3</sup>The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

Section 552.134 of the Government Code encompasses information relating to inmates of The Texas Department of Criminal Justice (the “department”) and states, in relevant part:

(a) Except as provided by Subsection (b) or by Section 552.029, information obtained or maintained by the [department] is excepted from the requirements of Section 552.021 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, however:

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:

...

(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.

You claim most of the submitted information is excepted from disclosure under section 552.134. We note although the inmate to whom the information at issue pertains is deceased, section 552.134 is applicable to information that relates to the decedent as an inmate. Thus, we find section 552.134 is generally applicable to the submitted information. In this instance, however, the information at issue concerns the death of an inmate in custody. Thus, as you acknowledge, basic information about this incident is subject to disclosure under section 552.029(8). Basic information under section 552.029(8) 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. Therefore, with the exception of the basic information regarding the death of the named inmate in custody, which must be released under section 552.029(8), the OIG must withhold the submitted information under section 552.134 of the Government Code.<sup>4</sup>

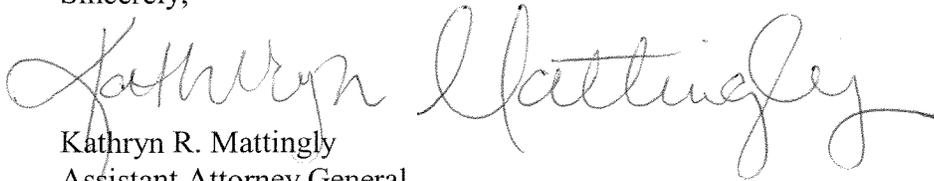
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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<sup>4</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure.

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,

A handwritten signature in cursive script that reads "Kathryn R. Mattingly". The signature is written in black ink and is positioned to the right of the typed name.

Kathryn R. Mattingly  
Assistant Attorney General  
Open Records Division

KRM/dls

Ref: ID# 450421

Enc. Submitted documents

c: Requestor  
(w/o enclosures)