



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 6, 2012

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

OR2012-08650

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# 455635.

The Texas Department of Criminal Justice's Office of the Inspector General (the "OIG") received a request for information pertaining to a specified incident. 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> (2005) and section 552.147 of the Government Code.<sup>2</sup> You claim the remaining submitted information is excepted from disclosure under sections 552.101, 552.102, 552.108, and 552.134 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

We note the information at issue includes a custodial death report. Article 49.18(b) of the Code of Criminal Procedure provides that with the exception of any portion of the custodial death report the Office of the Attorney General ("OAG") determines is privileged, the OAG

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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).

shall make the report public. *See* Crim. Proc. Code art. 49.18(b). The format of the report was revised in May 2006 and now consists of four pages and an attached summary of how the death occurred. The OAG has determined the four-page report and summary must be released to the public but any other documents submitted with the revised report are confidential under article 49.18(b). Therefore, the OIG must release the custodial death report we have marked pursuant to article 49.18(b) of the Code of Criminal Procedure.

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 the remaining 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, 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 inmate in

custody, which must be released under section 552.029(8), the OIG must withhold the remaining information under section 552.134 of the Government Code.<sup>3</sup>

In summary, the OIG must release the custodial death report we have marked pursuant to article 49.18(b) of the Code of Criminal Procedure. With the exception of the basic information regarding the death of the inmate in custody, which must be released under section 552.029(8), the OIG must withhold the remaining information under section 552.134 of the Government Code.

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,



Paige Lay  
Assistant Attorney General  
Open Records Division

PL/som

Ref: ID# 455635

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)

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<sup>3</sup>As we are able to make these determinations, we do not address your other arguments against disclosure, except to note basic information under section 552.029(8) corresponds to the basic front-page information that may not be withheld under section 552.108 of the Government Code. *See* Gov't Code § 552.108(c); *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177, 186-88 (Tex. Civ. App.—Houston [14th Dist.] 1975), writ ref'd n. r. e. per curiam, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 at 3-4 (1976).