



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 24, 2013

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

OR2013-10619

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# 490991.

The Office of the Inspector General of the Texas Department of Criminal Justice (the "department") received a request for all records pertaining to a named inmate. You inform us the department has destroyed some of the requested information in accordance with the department's records retention schedule.<sup>1</sup> You state you will redact certain information subject to sections 552.117 and 552.147 of the Government Code pursuant to Open Records Letter No. 2005-01067 (2005)<sup>2</sup> and section 552.147(b) of the Government

---

<sup>1</sup>The Act does not require a governmental body to release information that did not exist when it received a request. See *Economic Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 555 at 1 (1990), 452 at 3 (1986), 362 at 2 (1983).

<sup>2</sup>Open Records Letter No. 2005-01067 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.

Code, respectively.<sup>3</sup> You claim the submitted information is excepted from disclosure under sections 552.101, 552.102, 552.130, and 552.134 of the Government Code.<sup>4</sup> We have considered the exceptions you claim and reviewed the submitted information.

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

Except 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 552.134 is explicitly made subject to section 552.029, which provides, in relevant part:

[n]otwithstanding [s]ection . . . 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). Upon review, we find the submitted information consists of records pertaining to an individual confined as an inmate in a facility operated by the department and is, therefore, generally subject to section 552.134. We note the requestor provided a signed release for the named inmate. Although section 552.023 of the Government Code gives a person or the person's authorized representative a "special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy interests," we note section 552.134 does not protect only the inmate's privacy interest. *See id.* § 552.023. Therefore, section 552.023 does not provide the requestor a special right

---

<sup>3</sup>Section 552.147(b) of the Government Code authorizes a governmental body to redact the social security number of a living person from public release without the necessity of requesting a decision from this office under the Act. *See* Gov't Code § 552.147(b).

<sup>4</sup>Although you also raise section 552.108 of the Government Code, you have provided no arguments explaining how that section is applicable in this instance. Accordingly, we assume you no longer assert section 552.108 of the Government Code. *See* Gov't Code §§ 552.301, .302.

of access to the submitted information. We note, however, some of the submitted information pertains to an incident involving the use of force and an alleged crime involving the inmate. Therefore, the department must release basic information about the use of force incident and alleged crime pursuant to section 552.029(8). Basic information includes the time and place of the incidents, names of inmates and department officials directly involved, a brief narrative of the incidents, a brief description of any injuries sustained, and information regarding criminal charges or disciplinary actions filed as a result of the incidents. Therefore, with the exception of basic information, which the department must release, the department must withhold the submitted information pursuant to section 552.134(a) of the Government Code.<sup>5</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,



Kristi L. Wilkins  
Assistant Attorney General  
Open Records Division

KLW/bhf

Ref: ID# 490991

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

---

<sup>5</sup>As our ruling under section 552.134 of the Government Code is dispositive, we do not address your remaining argument against disclosure of this information.