



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 17, 2014

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

OR2014-12413

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# 529385 (OIG No. 2014-00097).

The Texas Department of Criminal Justice's Office of the Inspector General (the "department") received a request for a named inmate's autopsy report and the investigation into the named inmate's death. You state the department released some of the requested information. We understand the department has redacted a social security number under section 552.147(b) of the Government Code.<sup>1</sup> You state the department does not possess the requested autopsy report.<sup>2</sup> You claim most of the submitted information is excepted from disclosure under sections 552.101, 552.102, 552.108, 552.117, 552.1175, 552.130, 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>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. *See* Gov't Code § 552.147(b).

<sup>2</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 552.102(a) of the Government Code excepts from disclosure “information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.” Gov’t Code § 552.102(a). The Texas Supreme Court held section 552.102(a) excepts from disclosure the dates of birth of state employees in the payroll database of the Texas Comptroller of Public Accounts. *Tex. Comptroller of Pub. Accounts v. Attorney Gen. of Tex.*, 354 S.W.3d 336 (Tex. 2010). Upon review, we agree the date of birth the department redacted in Exhibit B must be withheld under section 552.102(a) of the Government Code.

Section 552.134 of the Government Code is applicable to information related to inmates of the department. Section 552.134 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). However, section 552.029 of the Government Code provides:

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.

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 information at issue. We note, however, the information in question is related to the death of an inmate in custody. Therefore, basic information about this inmate’s death 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. Accordingly, with the exception of basic information, which you indicate you have

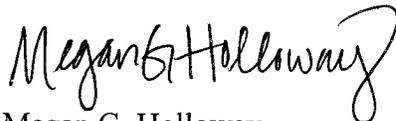
released, the department must withhold Exhibit C under section 552.134 of the Government Code.<sup>3</sup>

In summary, the department must withhold the date of birth in Exhibit B under section 552.102(a) of the Government Code. With the exception of basic information, which you indicate you have released, the department must withhold Exhibit C under section 552.134 of the Government Code. The department must release the remaining information.

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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Megan G. Holloway  
Assistant Attorney General  
Open Records Division

MGH/eb

Ref: ID# 529385

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>3</sup>As our ruling under section 552.134 of the Government Code is dispositive for this information, we do not address the remaining arguments against its disclosure, except to note basic information may generally not be withheld under section 552.108. *See* Open Records Decision No. 597 (1991); Gov't Code § 552.108(c).