



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

March 16, 2015

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

OR2015-04924

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# 556404 (TDCJ #1696860).

The Texas Department of Criminal Justice (the "department") received a request for all department records related to a named individual. You claim the submitted information 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.

Initially, we note the submitted information 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 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). Although you claim the submitted custodial death report is excepted from disclosure under section 552.134 of the Government Code, the exceptions to disclosure found in the Act do not generally apply to information that other statutes make public. *See* Open Records Decision Nos. 623 at 3 (1994), 525 at 3 (1989). Therefore, the department must release the submitted custodial death report, which we have marked, pursuant to article 49.18(b) of the Code of Criminal Procedure.

Section 552.134 of the Government Code is applicable to information related to inmates of the department. Section 552.134(a) states that

[e]xcept 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 552.029 of the Government Code provides in part that

[n]otwithstanding 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, section 552.134 is explicitly made subject to section 552.029. Although the inmate to whom the remaining information 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 remaining information. We note, however, the information in question is related to the death of an inmate in custody. Therefore, the department must release basic information about the inmate's death pursuant to section 552.029. The basic information that must be released 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, except for basic information under section 552.029(8) of the Government Code, which you have agreed to release, the department must withhold the remaining information under section 552.134 of the Government Code.<sup>1</sup>

In summary, the department must release the submitted custodial death report we have marked pursuant to article 49.18(b) of the Code of Criminal Procedure. Except for the basic

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<sup>1</sup>As we are able to reach these determinations, we need not address your other arguments against disclosure of this information. We 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).

information under section 552.029(8) of the Government Code, which must be released, the department 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.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,

A handwritten signature in black ink, appearing to read 'J. Behrke', is written over the typed name 'Joseph Behrke'.

Joseph Behrke  
Assistant Attorney General  
Open Records Division

JB/som

Ref: ID# 556404

Enc. Submitted documents

c: Requestor  
(w/o enclosures)