



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 13, 2016

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

OR2016-01055

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# 594325.

The Office of the Inspector General of the Texas Department of Criminal Justice (the "department") received a request for information pertaining to the deaths of four named inmates. The department claims the submitted information is excepted from disclosure under sections 552.101, 552.102, 552.103, 552.108, 552.117, 552.1175, 552.130, 552.134, and 552.147 of the Government Code. We have considered the exceptions the department claims and reviewed the submitted information.

Initially, we note the submitted information includes custodial death reports. 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). We note 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 reports 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

[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,

[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 inmates to whom the remaining information pertains are deceased, section 552.134 is applicable to information that relates to the decedents as inmates. Thus, we find section 552.134 is generally applicable to the remaining information. We note, however, the information in question is related to the deaths of inmates in custody. Therefore, the department must release basic information about the inmates' deaths pursuant to section 552.029. The basic information, pertaining to each incident, 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, the department must withhold the remaining information under section 552.134 of the Government Code.¹

¹As we are able to reach these determinations, we need not address the department's remaining 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 552.103 or section 552.108 of the Government Code. *See* Gov't Code § 552.108(c); *Houston Chronicle Publ'g 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 Nos. 597 (1991), 127 at 3-4 (1976).

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



Rahat Huq
Assistant Attorney General
Open Records Division

RSH/som

Ref: ID# 594325

Enc. Submitted documents

c: Requestor
(w/o enclosures)