



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 25, 2017

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

OR2017-19550

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# 672951.

The Office of the Inspector General of the Texas Department of Criminal Justice (the "department") received a request for information pertaining to a specified incident. You state the department does not have some information.¹ You inform us the department will redact information pursuant to sections 552.1175(f) and 552.147(b) of the Government Code and Open Records Letter No. 2005-01067 (2005).² You claim the submitted information is

¹The 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).

²Section 552.1175(f) of the Government Code authorizes a governmental body to redact under section 552.1175(b), without the necessity of requesting a decision from this office, the home addresses and telephone numbers, emergency contact information, dates of birth, social security number, and family member information of certain individuals who properly elect to keep this information confidential. *See Gov't Code* § 552.1175(b), (f). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.1175(h). *See id.* § 552.1175(g), (h). Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number without the necessity of requesting a decision from this office. *See id.* § 552.147(b). Open Records Letter No. 2005-01067 authorizes the department to withhold the present and former home addresses and telephone numbers, social security numbers, and family member information of its current or former employees under section 552.117(a)(3) of the Government Code, regardless of whether the current or former employee complies with section 552.1175 of the Government Code, without the necessity of requesting a decision under the Act. *See Open Records Decision No. 673 at 7-8 (2001)* (listing elements of second type of previous determination under section 552.301(a) of the Government Code).

excepted from disclosure under sections 552.101, 552.102, 552.103, and 552.134 of the Government Code. We have considered the claimed exceptions and reviewed the submitted information.

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

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, the following:

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). Upon review, we agree the submitted information constitutes information about an inmate, the requestor's client, for purposes of section 552.134. 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(a). This information pertains to an incident involving the use of force. Thus, pursuant to section 552.029, the department must release basic information concerning the incident involving the use of force. Basic information includes the time and place of the incident, names of inmates and department officials directly involved, a brief narrative of the incident, a brief description of any injuries sustained, and information regarding criminal charges or disciplinary actions filed as a result of the incident.³ With the exception of the basic

³We note basic information for section 552.134 purposes does not include the identities of witnesses.

information, which the department must release, the department must withhold the submitted information under section 552.134 of the Government Code.⁴

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,



Cole Hutchison
Assistant Attorney General
Open Records Division

CH/bw

Ref: ID# 672951

Enc. Submitted documents

c: Requestor
(w/o enclosures)

⁴As our ruling is dispositive, we do not address your remaining arguments against disclosure, except to note basic information may not be withheld under section 552.103 of the Government Code. *See* Open Records Decision No. 597 (1991).