Hand Delivered
Mr. Justin Gordon, Division Chief
Office of the Attorney General of Texas—Open Records Division
P.O. Box 12548
Austin, Texas 78711-2548

Re: Request from Edwin Budge received on October 16, 2017—Request for Ruling and Supplemental Brief

Dear Mr. Gordon:

On behalf of the Travis County Sheriff’s Office (“TCSO”), and under government Code section 552.301, we request a ruling for this open records request. TCSO received the request on October 16, 2017. Requestor seeks all documents that relate to the death of Herman Titus, as well as all jail records, medical records, and other records that relate to Herman Titus’s confinement in the Travis County Jail. Below is our supplemental brief setting forth the exceptions to disclosure of some of this information.

By copy of this letter we are informing the requestor that we wish to withhold some of the requested information and that we are asking for a decision from your office. A representative sample of the responsive information is provided for your review. Basic offense information will be released.

Some of the requested information may be withheld under Government Code section 552.108(a)(2).

Government Code section 552.108 states in relevant part:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from [required public disclosure] if:

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1 The original request came in on Wednesday, September 20, 2017. TCSO sent a partial release and $142.00 cost estimate on Wednesday, October 4, 2017. Payment was received on Monday, October 16, 2017, and the request is therefore considered received on that date. We have provided the correspondence for your review.

2 TCSO has released the requested medical files to requestor and will release the jail files requested.
(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication.[

Here, the request seeks all documents that relate to the death of Herman Titus, as well as all jail records, medical records, and other records that relate to Herman Titus’s confinement in the Travis County Jail. Here, the requested information relates to the investigation of a death in custody which was conducted by TCSO Major Crimes Unit and did not result in a final conviction or deferred adjudication. Some of the responsive information was also the subject of an internal affairs and jail investigation with the TCSO. Although these records involved an Internal Affairs investigation, it was not simply administrative in nature, but related to the TCSO criminal investigation. Accordingly, we assert that information related to the TCSO investigation and internal affairs and jail investigation may be withheld under Government Code section 552.108(a)(2) as the information deals with an investigation that did not result in a final conviction or deferred adjudication. We have provided representative samples of this information for your review.

Some of the requested information may also be withheld under Government Code section 552.108(b)(2)

Government Code section 552.108(b)(2) states:

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from the requirements of Section 552.021 if...

(2) the internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication

We assert that the responsive information is also excepted from disclosure under section 552.108(b)(2). This information consists of internal records and notations of the TCSO that are maintained for internal use in matters relating to law enforcement or prosecution, and the internal records and notations pertain to investigations that did not result in conviction or deferred adjudication. Accordingly, we assert that this information may be withheld under Government Code section 552.108(b)(2). This information is marked “§108(b)(2).”

In conclusion, we ask that you rule on whether the enclosed information must be released to the requestor. If you have any questions, please contact me at (512) 854-9176, or by e-mail at ann-marie.sheely@traviscountytx.gov.

Sincerely,
c:
Kristin Yarborough
Travis County Sheriff's Office
(via email, without enclosures)

Edwin S. Budge
Budge & Heipt, PLLC
705 Second Avenue, Suite 910
Seattle, WA 98104
(via email to , without enclosures)
October 4, 2017

Edwin Budge
Budge & Heipt, PLLC

Re: Request for Information

Dear Mr. Budge:

There are costs exceeding $40 associated with compiling the information you requested and, before we continue, we must receive your guarantee that you will compensate the county for these costs. We have calculated the costs for receiving copies below according to the cost rules outlined by law:

**Electronic Copies**

<table>
<thead>
<tr>
<th>Description</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Labor (est. 4.5 hours @ $15/hr) (making copies, redacting, and recopying)</td>
<td>$67.50</td>
</tr>
<tr>
<td>Labor (est. 1 hour @ $15/hr) (locating/compiling responsive emails or information)</td>
<td>$15.00</td>
</tr>
<tr>
<td>Retrieving Files from Off-site Storage (1 File @ $43.00 per file)</td>
<td>$43.00</td>
</tr>
<tr>
<td>Overhead ([Labor ($82.50)] x .20)</td>
<td>$16.50</td>
</tr>
<tr>
<td>DVD (0 DVD @$1.00)</td>
<td>$00.00</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>$142.00</td>
</tr>
</tbody>
</table>

Please note: We will consider your request automatically withdrawn if you do not respond in writing to this letter and itemization of charges informing this office within 10 business days after this letter’s date that: (1) you will accept the estimated charges; (2) you will modify your request; or (3) you have sent a written complaint to the Office of the Attorney General alleging that you have been overcharged for being provided with a copy of this public information. There is a less expensive way for you to obtain this information by inspection; you may contact our office regarding this alternative method.

If the estimated charges exceed $100, pursuant to Section 552.263(a), we require a deposit of 100% before starting to work on your request. If you agree to accept these charges, please state which option you are choosing in your response and, if choosing to receive copies, send the appropriate amount as determined above by cash, check, or money order payable to Travis County Sheriff’s Office PO Box 1748 Austin, TX. 78767 attention Kristin Yarborough. You may also deliver the payment to 5555 Airport Boulevard, Austin, Texas 78751.

Sincerely,

Kristin Yarborough
Paralegal, Open Records
TCSO
Dear Public Records Officer:

Attached, please find our public records request in this matter. We look forward to your prompt response. Thank you.

Edwin S. Budge  
Budge & Heipt, PLLC  
705 Second Ave., Suite 910  
Seattle, WA 98104  
206.624.3060  
www.budgeandheipt.com
September 20, 2017

Via E-Mail at tcsor@traviscountytex.gov

Public Records Officer
Travis County Texas Sheriff’s Office

Re: Public Records Request

Dear Public Records Officer:

We are making a request for records under the Texas Public Information Act, Section 6252-17a et seq. and other applicable law on behalf of Demeisha Burns, who is the mother and next of kin of Herman Titus, who died in the Travis County Jail on or about June 19, 2017. Enclosed, please find a release executed by Demeisha Burns.

The materials we seek are as follows:

• All documents acquired, produced, generated or obtained in connection with any investigation into the facts and circumstances leading up to and surrounding the death of Herman Titus (Investigatory Case No. 17-16595).

• All jail records relating to Herman Titus during the period of his confinement at the Travis County Jail from approximately May 23, 2017 to June 19, 2017.

• All medical records (including, but not limited to, jail medical records) relating to Herman Titus during the period of his confinement at the Travis County Jail from approximately May 23, 2017 to June 19, 2017.

• All other records that reference, relate, mention or pertain to Herman Titus’s confinement in the Travis County Jail from May 23, 2017 to June 19, 2017.

This information is not being sought for commercial purposes.

The Texas Public Information Act requires that you promptly produce the requested records unless, within 10 days, you have sought an Attorney General’s Opinion. If you expect a significant delay in responding to this request, please contact me with information about when I might expect the requested materials.
If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal to release the information and notify me of the appeal procedures available to me under the law.

Thank you in advance for your prompt processing of this request.

Very Truly Yours,

Edwin S. Budge

Edwin S. Budge
Budge & Heipt, PLLC

ESB/slh