



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 16, 2010

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

OR2010-17329

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# 400221 (OIG ORR File #OR 2010-00189).

The Texas Department of Criminal Justice's (the "department") Office of Inspector General (the "OIG") received a request for OIG statements and disciplinary records regarding the requestor. You state the OIG will provide some of the requested information to the requestor. You claim parts of the submitted investigation file are excepted from disclosure under sections 552.108 and 552.134 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(a)(1) of the Government Code excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]" Gov't Code § 552.108(a)(1). A governmental body claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the submitted investigation file number IF.CC.00509.2009.E2 pertains to a pending criminal investigation. Based on this representation and our review, we conclude the release of this information would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases).

As you acknowledge, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). Such basic information refers to the information held to be public in *Houston Chronicle*, and includes the identity of the complainant. See 531 S.W.2d at 186-87; Open Records Decision No. 127 (summarizing types of information considered to be basic information). You claim the victim's identifying information should be withheld from basic information. We note basic information does not include victim-identifying information, unless a victim is also a complainant. In this instance, because the victim is also the complainant, the victim's identifying information is part of basic information. You claim, however, the complainant's identifying information is excepted from disclosure under section 552.134 of the Government Code.

Section 552.134 of the Government Code relates to inmates of the department and provides in relevant part:

(a) 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:

[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.

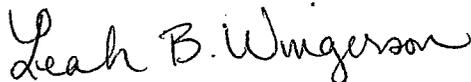
*Id.* § 552.029(8). The submitted investigation file pertains to a correction officer allegedly threatening an inmate. The basic information for purposes of section 552.108 in the submitted investigation file includes the victim inmate's identifying information, which is generally excepted from disclosure under section 552.134. The submitted information, however, concerns an alleged crime involving an inmate. Basic information for purposes of section 552.029 regarding an alleged crime involving an inmate is subject to required disclosure under section 552.029(8) of the Government Code. Basic information includes, among other things, names of inmates directly involved in the incident. Thus, the inmate's identifying information in the basic information for purposes of section 552.108 is subject to release under section 552.029(8), and may not be withheld under section 552.134.

Therefore, with the exception of basic information, the OIG may withhold the submitted information under section 552.108(a)(1) of the Government Code.<sup>1</sup>

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.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Leah B. Wingerson  
Assistant Attorney General  
Open Records Division

LBW/dls

Ref: ID# 400221

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>1</sup>You state the OIG will withhold the complainant's social security number from the basic information under section 552.147 of the Government Code. 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 under the Act.