



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

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OR2011-01038

Dear Ms. Fleming and 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# 406620 (OIG Open Records 2010-00237).

The Texas Department of Criminal Justice (the "department") received a request for all records pertaining to an inmate escape incident at the Kyle Correctional Center on a specified date. The department's Office of the General Counsel (the "OGC") and its Office of the Inspector General (the "OIG") have submitted separate correspondence to this office. The OGC states the requestor narrowed his request with respect to information in the OGC's possession, and the OGC has provided all of its information responsive to the narrowed request. Thus, the OGC has withdrawn its request for a ruling. The OIG states it will provide some of its requested information to the requestor. The OIG claims the submitted investigation records are excepted from disclosure under sections 552.101, 552.108, 552.130, and 552.134 of the Government Code. We have considered the exceptions the OIG claims and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses laws that make criminal history record information ("CHRI") confidential. CHRI generated by the National Crime Information Center or by the Texas Crime Information Center is confidential under federal and state law. Title 28, part 20 of the Code of Federal Regulations governs the release of CHRI that states

obtain from the federal government or other states. Open Records Decision No. 565 at 7 (1990). The federal regulations allow each state to follow its individual law with respect to CHRI it generates. *Id.* Section 411.083 of the Government Code deems confidential CHRI the Department of Public Safety ("DPS") maintains, except DPS may disseminate this information as provided in chapter 411, subchapter F of the Government Code. *See* Gov't Code § 411.083. Sections 411.083(b)(1) and 411.089(a) authorize a criminal justice agency to obtain CHRI; however, a criminal justice agency may not release CHRI except to another criminal justice agency for a criminal justice purpose. *Id.* § 411.089(b)(1). Other entities specified in chapter 411 of the Government Code are entitled to obtain CHRI from DPS or another criminal justice agency; however, those entities may not release CHRI except as provided by chapter 411. *See generally id.* §§ 411.090-.127. Similarly, any CHRI obtained from DPS or any other criminal justice agency must be withheld under section 552.101 of the Government Code in conjunction with Government Code chapter 411, subchapter F. We have marked information in the submitted investigation records that constitutes CHRI that is confidential under chapter 411. Accordingly, the marked information must be withheld under section 552.101 of the Government Code in conjunction with federal law and chapter 411 of the Government Code.

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

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.

*Id.* § 552.134(a). Section 552.134 is explicitly made subject to section 552.029, which provides, in relevant part:

[n]otwithstanding [s]ection . . . 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 consists of records pertaining to individuals confined as inmates in a facility operated by the department. Thus, we conclude section 552.134(a) is generally applicable to the submitted information. We note, however, the submitted records pertain to alleged crimes involving inmates. Therefore, the OIG must release basic information about the alleged crimes pursuant to section 552.029.

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. The OIG states it will release basic information about the alleged crimes. Therefore, the OIG must withhold the remaining information at issue pursuant to section 552.134 of the Government Code.<sup>1</sup>

In summary, the OIG must withhold the information we have marked under section 552.101 of the Government Code in conjunction with federal law and chapter 411 of the Government Code. With the exception of basic information, which the OIG states it will release, the OIG must withhold the remaining information at issue pursuant to 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.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# 406620

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>1</sup>As our ruling is dispositive, we need not address the OIG's remaining arguments against disclosure.