



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 9, 1996

Honorable John W. Segrest
Criminal District Attorney
McLennan County
219 North Sixth Street, Suite 200
Waco, Texas 76701

OR96-0515

Dear Mr. Segrest:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 38124.

You have received a request for information concerning a criminal file. You ask, among other questions, whether this is a request for public information. You contend that if we respond in the affirmative that the request may be denied pursuant to section 552.027 of the Government Code.

Chapter 552 does not require that a requestor submit a request for information in any particular form, merely that it be a written request for information. *See* Open Records Decision Nos. 497 (1988) (no particular request form or "magic words" are required by Open Records Act), 483 (1987) (same). Accordingly, as long as a written request can be identified as a request for public information it is a valid request under the act. Open Records Decision No. 483 (1987) at 2. "Public information" is defined as "information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business: (1) by a governmental body; or (2) for a governmental body and the governmental body owns the information or has a right of access to it." Gov't Code § 552.002(a); *see also* Open Records Decision No. 549 (1990) (virtually all information in physical possession of governmental body is subject to Open Records Act). Accordingly, the request at issue is a valid request for public information under chapter 552.

We must now consider the applicability of section 552.027 as added by Act of May 18, 1995, 74th Leg., R.S., ch. 302, § 1, 1995 Tex. Sess. Law Serv. 2670. Section 552.027 provides:

(a) A governmental body is not required to accept or comply with a request for information from an individual who is imprisoned or confined in a correctional facility.

(b) Subsection (a) does not prohibit a governmental body from disclosing to an individual described by that subsection information held by the governmental body pertaining to that individual.

(c) In this section, "correctional facility" has the meaning assigned by Section 1.07(a), Penal Code.

Section 1.07(a) of the Penal Code provides:

(14) "Correctional facility" means a place designated by law for the confinement of a person arrested for, charged with, or convicted of a criminal offense. The term includes:

(A) a municipal or county jail;

(B) *a confinement facility operated by the Texas Department of Criminal Justice;*

(C) *a confinement facility operated under contract with any division of the Texas Department of Criminal Justice; and*

(D) a community corrections facility operated by a community supervision and corrections department. [Emphasis added.]

The requestor specifically states that he is an inmate of the Terrell Unit of the Institutional Division of the Texas Department of Criminal Justice. As the individual requesting the information at issue is "an individual who is imprisoned or confined in a correctional facility," the request is subject to section 552.027 of the Government Code. Section 552.027 gives you the discretion to either "comply with" this open records request or deny it in its entirety. As we resolve this matter under section 552.027, we need not address the additional questions you have raised.¹

¹One of the questions you ask is whether you may destroy the request letter. We note that the requestor's letter is public information. See Gov't Code § 552.002(a). Section 552.004 of the Government Code provides that "A governmental body or, for information of an elective county office, the elected county officer, may determine a time for which information that is not currently in use will be preserved, *subject to any applicable rule or law governing the destruction and other disposition of state and local government records or public information.*" (Emphasis added.) The destruction of local government records, see Local Gov't Code § 201.003(8), is governed by the Local Government Records Act, *id.* § 201.001. We note that the unauthorized destruction of a local government record is a criminal offense. Gov't Code § 552.351 (destruction of public information); Local Gov't Code § 202.008 (destruction

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Sandra L. Coaxum, CPA
Chief, Open Records Division

SLC/LBC/rho

Ref: ID# 38124

cc: Mr. Edward Ray Rosas, #687395
Terrell Unit
12001 FM 350 South
Livingston, Texas 77351

(Footnote continued)

of local government record). We suggest you contact the Texas State Library and Archives Commission concerning records retention questions for your county.