



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

July 29, 1996

Mr. John Steiner  
Division Chief  
City of Austin  
Law Department  
P.O. Box 1088  
Austin, Texas 78767-1088

OR96-1322

Dear Mr. Steiner:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 36713.

The City of Austin (the "city") received an open records request for information relating to certain city employees. You ask whether the request may be denied pursuant to section 552.027 of the Government Code and, alternatively, seek to withhold the requested information pursuant to section 552.103 of the Government Code.

You inform us that the requestor is the brother of an inmate and that the information sought is the same information sought by the inmate in an earlier request for information which this office addressed in Open Records Letter No. 95-451 (1995). The Texas Legislature recently enacted certain legislation that affects the ability of incarcerated individuals to obtain, under the Open Records Act, information held by governmental entities in Texas. Section 1 of House Bill 949 amended the Open Records Act by adding section 552.027 of the Government Code, which provides as follows:

Sec. 552.027. REQUEST FOR INFORMATION FROM INCARCERATED INDIVIDUAL. (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.<sup>1</sup>

Gov't Code § 552.027 (as added by Acts 1995, 74th Leg., ch. 302, § 1) (footnote added).

We understand you to suggest that the requestor, the inmate's brother, is acting as the inmate's *agent*. We agree, and conclude that the department may decline to comply with the request, if it so chooses, under section 552.027. We reach this conclusion for two reasons.

First, we are bound to construe statutes in ways so as not to produce an absurd or unreasonable result. *City of Wilmer v. Laidlaw Waste Sys. (Dallas), Inc.*, 890 S.W.2d 459, 465 (Tex. App.--Dallas 1994), *aff'd*, 904 S.W.2d 656 (Tex. 1995); *see State Highway Dept. v. Gorham*, 162 S.W.2d 934 (Tex. 1942); *Anderson v. Penix*, 161 S.W.2d 455 (Tex. 1942). A construction of section 552.027 that would permit a governmental body to decline to comply with a request submitted by an inmate, on the one hand, but that would require the governmental body to comply with one submitted by an inmate's agent, on the other, is absurd on its face. We decline to adopt such a construction.

Second, construing the provision to require a governmental body to comply with a request submitted by an inmate's agent while at the same time permitting that governmental body to ignore a request submitted by the inmate himself would entail a manifest circumvention of the provision and frustrate the obvious intent of the legislature when it enacted section 552.027.

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<sup>1</sup>Section 1.07(a)(14) of the Penal Code provides:

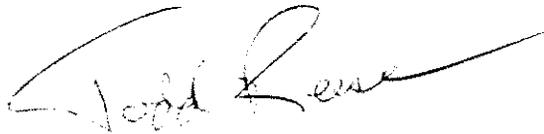
"Correctional facility" means a place designated by law for the confinement of a person arrested for, charged with, or convicted of a criminal offense. The term includes:

- (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.

We conclude that section 552.027 of the Government Code, which permits a governmental body to decline to accept or comply with a request for information that is submitted by an individual who is imprisoned or confined in a correctional facility, also permits a governmental body to decline to accept or comply with a request that is submitted by that person's agent. Accordingly, we conclude that section 552.027 gives you the discretion to either comply with this open records request or deny it in its entirety.<sup>2</sup>

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,



Todd Reese  
Assistant Attorney General  
Open Records Division

RTR/rho

Ref.: ID# 36713

Enclosures: Submitted documents

cc: Mr. Darrell Crayton  
5108 Regency Drive  
Austin, Texas 78724  
(w/o enclosures)

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<sup>2</sup>As we have determined that you have the discretion to comply with or deny this request in its entirety under section 552.027, we need not address your arguments against disclosure under section 552.103.