



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

September 16, 1997

Ms. Elaine S. Hengen  
Assistant City Attorney  
City of El Paso  
2 Civic Center Plaza  
El Paso, Texas 79901-1196

OR97-2069

Dear Ms. Hengen:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 108537.

The El Paso Police Department (the "department"), which you represent, received a request for a police report regarding a particular incident, as well as "any kind of information" concerning the requestor. In response to the request, you submitted to this office for review a representative sample of the information you assert is responsive.<sup>1</sup> You raise Government Code sections 552.027, 552.101 and 552.108. We have considered your arguments and have reviewed the submitted information.

You contend that the department is not required to comply with this request for information under section 552.027 of the Government Code. Section 552.027 provides the following:

- (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.

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<sup>1</sup>We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

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(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>2</sup>

Gov't Code § 552.027 (footnote added).

You state that the request is from an individual incarcerated in a correctional facility. Consequently, the request is subject to section 552.027 of the Government Code. Thus, section 552.027 gives you the discretion to either deny this open records request in its entirety or release all or part of the information at issue that is not otherwise confidential by law. Gov't Code § 552.007.

As we are able to make a determination under section 552.027, we do not address your claims under sections 552.103 and 552.108. 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,



Sam Haddad  
Assistant Attorney General  
Open Records Division

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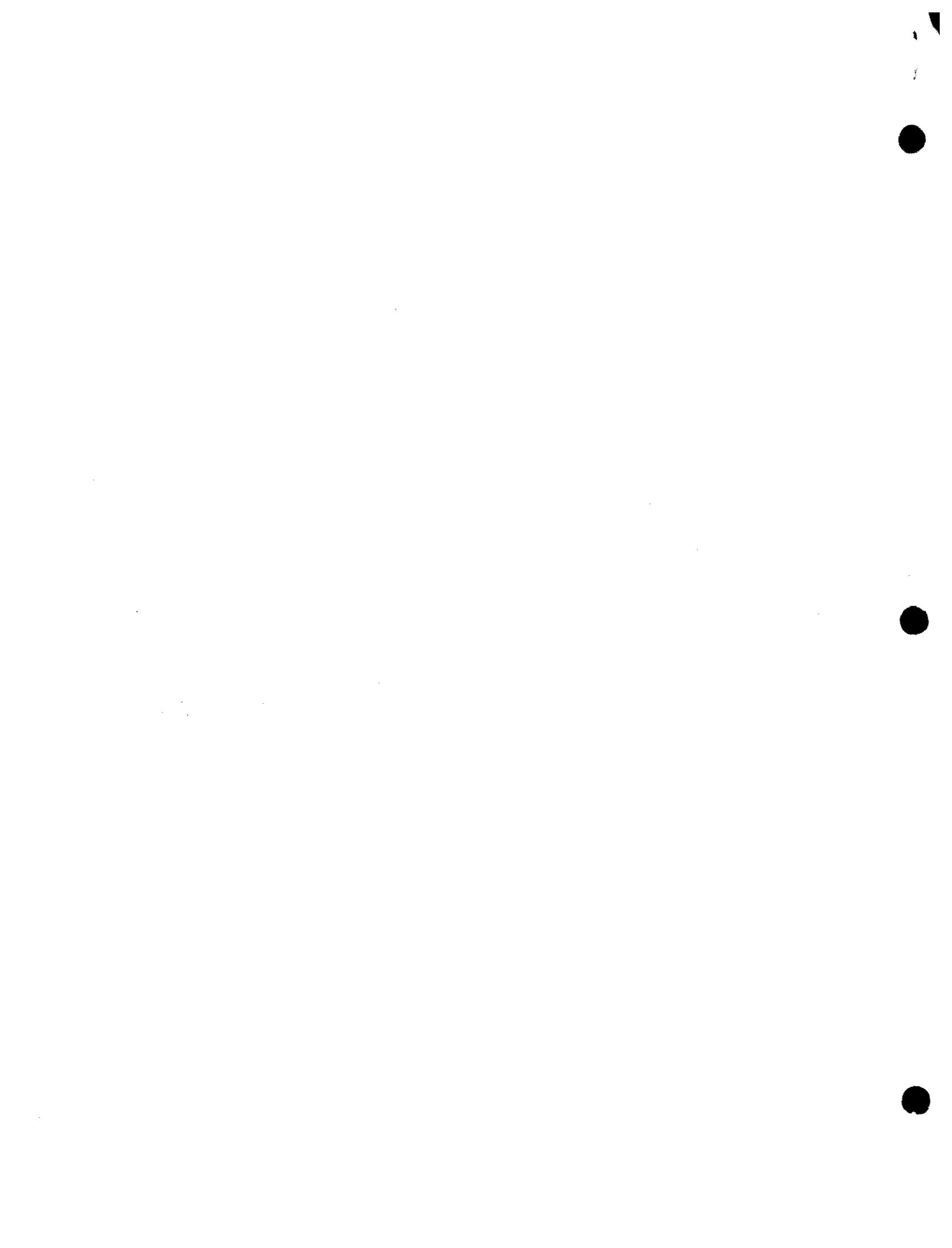
<sup>2</sup>Section 1.07(a)(14) of the Penal Code provides:

"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:

(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.



Ref.: ID# 108537

cc: Mr. Ricardo Flores Torres BK# 7013081  
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