



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 6, 1998

Ms. Barbara M. Holthaus
General Counsel
Texas Board of Examiners of Psychologists
333 Guadalupe, Suite 2-450
Austin, Texas 78701

OR98-1136

Dear Ms. Holthaus:

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# 115285.

The Texas State Board of Examiners of Psychologists (the "board") received an open records request from an individual incarcerated in a correctional facility for three copies of the board's complaint form and a copy of the board's rulebook. You explain that the board considers these documents to be public information that is routinely released upon request. However, you seek to withhold these records in this instance pursuant to section 552.028 of the Government Code, which provides as follows:

(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.

Although we agree that the requested information is public, *see generally* Open Records Decision No. 58 (1974), the provisions of section 552.028 of the Government Code govern this particular request. Because the individual requesting the information at issue is

“an individual who is imprisoned or confined in a correctional facility,” the Open Records Act gives the board the discretion to either “comply with” this open records request or deny it in its entirety.

Yours very truly,

***Open Records Division
Office of the Attorney General***

Ref.: ID# 115285

Enclosures: Submitted documents

cc: Mr. Wesley Carey
12071 FM 3522
Abilene, Texas 79601
(w/o enclosures)