



September 8, 2000

Ms. Kristi LaRoe
Assistant District Attorney
Tarrant County
401 West Belknap
Fort Worth, Texas 76196-0201

OR2000-3460

Dear Ms. LaRoe:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 138761.

Tarrant County (the "county") received a request for information relating to specified offense reports. You contend that the county is not required to respond to the request pursuant to section 552.028 of the Government Code. You additionally claim that the requested information is excepted from disclosure under sections 552.101 and 552.111 of the Government Code. We have considered your arguments and reviewed the submitted information.

Section 552.028 of the Government Code provides as follows:

(a) A governmental body is not required to accept or comply with a request for information from:

(1) an individual who is imprisoned or confined in a correctional facility; or

(2) an agent of that individual, other than that individual's attorney when the attorney is requesting information that is subject to disclosure under this chapter.

(b) This section does not prohibit a governmental body from disclosing to an individual described by Subsection (a)(1), or that individual's agent, information held by the governmental body pertaining to that individual.

You explain that the requested records pertain to an inmate confined in a correctional facility.¹ You further explain that the requestor is the husband of the inmate, and he informed the county that he is seeking the information at the inmate's request. You contend that, because the requestor is acting as the inmate's agent, you may decline to comply with the request pursuant to section 552.028(a)(2). It does not appear that the requestor is an attorney representing the inmate. Thus, we agree that section 552.028(a)(2) of the Government Code permits the county to either decline to accept or comply with the request. Therefore, pursuant to section 552.028, you need not comply with this request.

Because our determination under section 552.028 is dispositive, we need not address your other claimed exceptions. We note that it is within your discretion to release the requested information. Should you choose to comply with this request for information, you must not release information confidential by law. *See* Gov't Code § 552.352 (prescribing criminal penalties for disclosure of confidential information).

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be

¹"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 municipal or county jail; a confinement facility operated by the Texas Department of Criminal Justice; a confinement facility operated under contract with any division of the Texas Department of Criminal Justice; and a community corrections facility operated by a community supervision and corrections department. Texas Pen. Code § 1.07(a)(14).

provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Julie Reagan Watson
Office Of the Attorney General
Open Records Division

JRW/pr

Ref: ID# 138761

Encl. Submitted documents

cc: Mr. Ray Lancaster
5932 Nina Lane
Haltom City, Texas 76117
(w/o enclosures)