



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 13, 2009

Mr. Robert J. Davis
Matthews, Stein, Shiels, Pearce, Knott, Eden & Davis, L.L.P.
8131 LBJ Freeway, Suite 700
Dallas, Texas 75251

OR2009-03373

Dear Mr. Davis:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 337660.

The Collin County Detention Center (the "center"), which you represent, received a request for visitation logs related to a named prisoner during a specified time period. You claim that the center need not comply with the request pursuant to section 552.028 of the Government Code. Alternatively, you claim that the submitted information is excepted from disclosure under section 552.101 of the Government Code.¹ We have considered your arguments and reviewed the submitted information.

You argue that the center is not required to comply with the request under section 552.028 of the Government Code. Section 552.028 of the Government Code provides:

(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.

¹Although the center does not raise section 552.101 within the ten business day deadline described by section 552.301(b), we will consider your arguments under this section, as it is a mandatory exception to disclosure that a governmental body may not waive. See Gov't Code § 552.301, .302.

(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.

Gov't Code § 552.028. You state, and provide documentation showing, that the named individual at issue is currently confined in a correctional institution. The requestor states in her request that she is the fiancée of the named individual. In addition, the requestor submitted a Power of Attorney along with her request showing that she is acting as an agent of the named individual. Upon review, we agree that the requestor is acting as the agent of the incarcerated individual for purposes of section 552.028. Therefore, we conclude that the center need not comply with this request.²

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

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Tamara Wilcox
Assistant Attorney General
Open Records Division

TW/eeg.

Ref: ID# 337660

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²As our ruling is dispositive, we need not address your remaining arguments against disclosure.