



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 11, 2011

Ms. Dana W. Cooley
District Attorney
132nd Judicial District
1806 25th Street, Suite 302
Snyder, Texas 79549-2530

OR2011-05027

Dear Ms. Cooley:

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# 418603.

The 132nd Judicial District Attorney's Office (the "district attorney") received a request for any medical records or "exculpatory evidence" that were not presented at the requestor's trial or given at the request of a motion for discovery, and the results of a toxicology screen performed on a named individual. You contend that the district attorney need not comply with the request pursuant to section 552.028 of the Government Code. We have considered your argument. We have also considered comments submitted by the requestor. *See* Gov't Code § 552.304 (providing that interested party may submit written comments regarding why information should or should not be released).

Section 552.028 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.

(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(a), (b). You state the present request was made by an individual who is confined in a correctional facility. *See id.* § 552.028(c) ("correctional facility" is a place for the confinement of a person arrested for or charged with a criminal offense). The submitted information shows that the requestor is an inmate confined in the Dick Ware Unit of the Texas Department of Criminal Justice, a correctional facility. Based on your representations and our review, we agree section 552.028 is applicable in this instance and conclude the district attorney may decline to accept or comply with this request.

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, toll free at (888) 672-6787.

Sincerely,



Kirsten Brew
Assistant Attorney General
Open Records Division

KB/sdk

Ref: ID# 418603

c: Requestor