



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 29, 2011

Ms. Tiffany N. Colunga
Chief Civil Prosecutor
Comal County Criminal District Attorney
150 North Seguin, Suite 307
New Braunfels, Texas 78130

OR2011-19130

Dear Ms. Colunga:

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# 440460 (File No. 11-OR-081).

The Comal County Sheriff's Office (the "sheriff") received a request for a named inmate's medical records. You argue the sheriff 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 sections 552.103, 552.108, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹ We have also received and considered comments submitted by the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Section 552.028 of the Government Code provides in relevant part:

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

¹We 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.

(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 [the Act].

(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.

Id. § 552.028(a)-(b). You argue that the requestor made the present request for information as an agent of an inmate. The requestor, in this instance, is the mother of the inmate and provided a medical authorization form signed by the inmate along with her request. Based on your representations and our review of the submitted documents, we agree the requestor is acting as an agent of the inmate for purposes of section 552.028. Therefore, we conclude the sheriff 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, toll free, at (888) 672-6787.

Sincerely,



Nneka Kanu
Assistant Attorney General
Open Records Division

NK/bs

²Because our ruling is dispositive, we do not address your remaining arguments against disclosure.

Ref: ID# 440460

Enc. Submitted documents

c: Requestor
(w/o enclosures)