



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 16, 2012

Mr. David K. Walker
County Attorney
Montgomery County
207 West Phillips, Suite 100
Conroe, Texas 77301

OR2012-16513

Dear Mr. Walker:

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# 470254.

The Montgomery County Sheriff's Department (the "department") received a request for all information pertaining to the requestor's son. You claim the department is not required to comply with the request pursuant to section 552.028 of the Government Code. Alternatively, you claim the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered your arguments and reviewed the submitted information.

Section 552.028 of the Government Code provides in part the following:

(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 [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.

(c) In this section, "correctional facility" means:

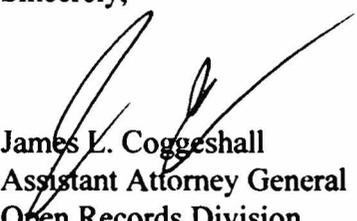
- (1) a secure correctional facility, as defined by Section 1.07, Penal Code;
- (2) a secure correctional facility and a secure detention facility, as defined by Section 51.02, Family Code; and
- (3) a place designated by the law of this state, another state, or the federal government for the confinement of a person arrested for, charged with, or convicted of a criminal offense.

Gov't Code § 552.028(a)-(c). You state the requestor is trying to obtain the requested information "in order to assist her son in parole proceedings, which implies that he is currently incarcerated in a correction facility." Based on our review of the submitted documents and your representation that the requestor is a representative of an inmate, we conclude the department may decline to accept or comply with the request for information pursuant to section 552.028.¹

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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/tch

¹As our ruling is dispositive, we do not address your argument to withhold this information under the Act.

Ref: ID# 470254

Enc. Submitted documents

c: Requestor
(w/o enclosures)