



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 19, 2012

Mr. Gordon K. LeMaire
Assistant District Attorney
Office of the District Attorney
Cherokee County
P.O. Box 450
Rusk, Texas 75785

OR2012-18631

Dear Mr. LeMaire:

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# 471537.

The Cherokee County Sheriff's Office (the "sheriff") received a request for the offense report related to a specified capital murder case. You contend the sheriff may decline to comply with this request pursuant to section 552.028 of the Government Code. We have considered your arguments and reviewed the submitted information.

Section 552.028 of the Government Code provides in part:

(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 the sister of an incarcerated individual who is the subject of the submitted information. However, the requestor does not indicate she is acting as her brother's agent, and you provide no further details to explain that the requestor is acting on the incarcerated individual's behalf. Thus, we conclude you have not established the requestor is, in fact, acting as the incarcerated individual's agent. We therefore conclude section 552.028 of the Government Code does not permit the sheriff to decline to comply with this request. Accordingly, as you raise no further arguments against release of the submitted information, it must be released to the requestor.

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,



Michael A. Pearle
Assistant Attorney General
Open Records Division

MAP/som

Ref: ID# 471537

Enc. Submitted documents

c: Requestor
(w/o enclosures)