



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 1, 2013

Mr. Mark G. Mann
Assistant City Attorney
City of Garland
P.O. Box 469002
Garland, Texas 75046-9002

OR2013-13318

Dear Mr. Mann:

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# 495033 (GCA 13-0312).

The Garland Police Department (the "department") received a request for a specified internal affairs investigation. You assert the department is not required to comply with this request pursuant to section 552.028 of the Government Code. In the alternative, you claim the submitted information is excepted from disclosure under sections 552.101 and 552.103 of the Government Code. We have considered your arguments and reviewed the submitted information.

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 [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:

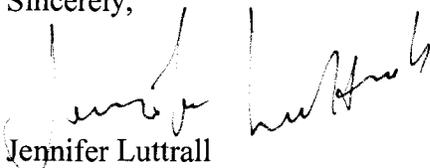
- (1) a secure correctional facility, as defined by Section 1.07, Penal Code;
- (2) a secure correctional facility and a secure detention facility, as defined by Section 51.02, Family Code; and
- (3) a place designated by the law of this state, another state, or the federal government for the confinement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

Gov't Code § 552.028. You argue the request relates to information requested by an individual who is imprisoned or confined in a correctional facility, or an agent of that individual. You state the requestor in this instance informed the department he is the brother of an incarcerated individual and is requesting the information at issue to aid in the incarcerated individual's lawsuit. Based on your representations, we agree section 552.028 of the Government Code is applicable in this instance and conclude the department need not comply with this request.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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Jennifer Luttrall
Assistant Attorney General
Open Records Division

JL/som

¹As we are able to make this determination, we need not address your arguments against disclosure.

Ref: ID# 495033

Enc. Submitted documents

c: Requestor
(w/o enclosures)