



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 9, 2014

Ms. Cecilia Gamez  
Crime Records Office  
McAllen Police Department  
P.O. Box 220  
McAllen, Texas 78505-0220

OR2014-11812

Dear Ms. Gamez:

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# 528778.

The McAllen Police Department (the "department") received a request for a certified letter for a city-wide criminal record check for the requestor's client. You assert the department is not required to comply with this request pursuant to section 552.028 of the Government Code. We have considered your argument and reviewed the submitted information.

Section 552.028 of the Government Code provides as follows:

(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. Thus, under section 552.028, a governmental body has discretion to release requested public information to an individual who is imprisoned or confined in a correctional facility or to such an individual's agent, unless the agent is the individual's attorney. *See id.* § 552.028(a)(2); *Hickman v. Moya*, 976 S.W.2d 360 (Tex. App.—Waco,1998). Although you state the requestor is the wife of an incarcerated individual and is acting on behalf of her husband, the requestor states his law firm represents the individual at issue in immigration proceedings. Section 552.028(a)(2) of the Government Code requires the department to "accept or comply with a request for information" from an inmate's attorney, "when the attorney is requesting information that is subject to disclosure under this chapter." As such, we conclude section 552.028 is inapplicable in this instance, and the department must comply with the request for information. As you raise no exceptions to disclosure, the submitted information must be released in its entirety.<sup>1</sup>

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](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,



Cristian Rosas-Grillet  
Assistant Attorney General  
Open Records Division

CRG/dls

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<sup>1</sup>We note the requestor has a right of access to the information being released. *See id.* § 552.023(a) (person or person's authorized representative has special right of access to information held by governmental body that relates to person and that is protected from public disclosure by laws intended to protect person's privacy interests); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Thus, the department must again seek a decision from this office if it receives another request for the same information from another requestor.

Ref: ID# 528778

Enc. Submitted documents

c: Requestor  
(w/o enclosures)