



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 17, 2016

Mr. Zachary Brown
Assistant General Counsel
TDCJ - Office of the General Counsel
P.O. Box 4004
Huntsville, Texas 77342-4004

OR2016-18605

Dear Mr. Brown:

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# 622900.

The Texas Department of Criminal Justice (the "department") received a request for information pertaining to a named inmate's property. You argue the department need not comply with the request for information pursuant to section 552.028 of the Government Code. In the alternative, you claim the submitted information is excepted from disclosure under section 552.134 of the Government Code. We have considered your arguments and reviewed the submitted information.

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:

(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.

Gov't Code § 552.028(a)-(b). As noted above, the individual named in the request is an inmate in a correctional facility. You state the requestor is the mother of the named inmate and not his attorney. Further, you assert the requestor is acting on behalf of her incarcerated son because of her maternal relationship, a complaint she filed, and the nature of her request. However, upon review, we find you have not established the requestor is requesting information on behalf of the named inmate. Thus, we find you have failed to demonstrate the request for information was submitted by an agent of an individual who is imprisoned or confined in a correctional facility. Accordingly, section 552.028 is not applicable in this instance, and we will address your argument against disclosure of the submitted information.

Section 552.134(a) of the Government Code relates to inmates of the department and provides, in relevant part, the following:

(a) Except as provided by Subsection (b) or by Section 552.029 [of the Government Code], information obtained or maintained by the [department] is excepted from [required public disclosure] if it is information about an inmate who is confined in a facility operated by or under a contract with the department.

Id. § 552.134(a). You state the submitted information constitutes information about an inmate confined in a facility operated by the department. You state section 552.029 of the Government Code does not apply to the information at issue. Upon review, we find the submitted information is subject to section 552.134 of the Government Code and must be withheld on this basis.

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,



Ramsey A. Abarca
Assistant Attorney General
Open Records Division

RAA/dls

Ref: ID# 622900

Enc. Submitted documents

c: Requestor
(w/o enclosures)