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ATTORNEY GENERAL OF TEXAS

October 5, 2016

Mr. Zachary Brown
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P.O. Box 4004
Huntsville, Texas 77342-4004

OR2016-22441

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# 629183.

The Texas Department of Criminal Justice (the "department") received two requests for information pertaining to a named inmate. The department states it does not have information responsive to portions of the requests.¹ The department argues, pursuant to section 552.028 of the Government Code, the department need not comply with the requests for information. Alternatively, the department claims the submitted information is excepted from disclosure under sections 552.101 and 552.134 of the Government Code. We have considered the submitted 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

¹The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

(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.

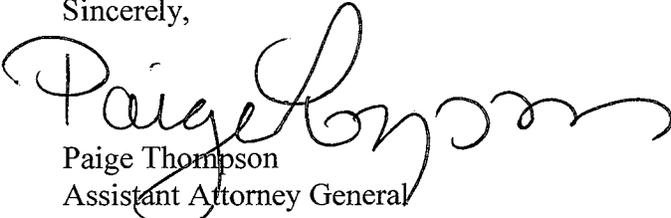
(b) This section does not prohibit a governmental body from disclosing to an individual described by Subsection (a)(1), or that individual's agent, information held by the governmental body pertaining to that individual.

Gov't Code § 552.028. The department states the individual named in the requests is an individual who is confined in a department correctional facility. *See id.* § 552.028(c) ("correctional facility" is a place for the confinement of a person arrested for, charged with, or convicted of a criminal offense). The department asserts the first requestor is acting as an agent of the offender to obtain the requested information because she identified herself as a friend of the inmate at issue and stated she was helping him gather information. Further, the department states during a telephone call with the first requestor and the inmate, the inmate stated he was the "beneficiary" of the requested information. The department also states the second requestor is the assistant of the offender and is seeking the requested information on behalf of the offender. The department asserts, pursuant to section 552.028, the department is not required to accept or comply with these requests. Based on the department's representations, we agree section 552.028 of the Government Code is applicable in this instance and conclude the department need not comply with these requests.²

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,



Paige Thompson
Assistant Attorney General
Open Records Division

PT/dls

²As we are able to make this determination, we need not address your remaining arguments.

Ref: ID# 629183

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)