



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 21, 2016

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

OR2016-23684

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# 631707.

The Texas Department of Criminal Justice (the "department") received a request for documentation and video footage of a specified incident concerning a named inmate. You state you do not have some of the information requested.¹ You argue pursuant to section 552.028 of the Government Code, the department need not comply with the request for information. In the alternative, you claim the submitted information is excepted from disclosure under sections 552.101 and 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:

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).

(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 wife of the named inmate. Further, you state the requestor informed the department she needed to speak to the named inmate to determine what documents the inmate wants the requestor to request for him. Thus, you contend the requestor is acting as an agent of the named inmate. Upon review, we agree the requestor is acting as the agent of the inmate for purposes of section 552.028. Therefore, the department need not comply with the request for information from the requestor. As we are able to make this determination, we need not address the remaining arguments against disclosure of the requested information.

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,



Emily Kunst
Assistant Attorney General
Open Records Division

EK/eb

Ref: ID# 631707

Enc. Submitted documents

c: Requestor
(w/o enclosures)