



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

May 17, 1996

Mr. Patrick S. Dohoney  
Tarrant County Assistant District Attorney  
401 West Belnap  
Fort Worth, Texas 76196-0201

OR96-0732

Dear Mr. Dohoney:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 40080.

The Tarrant County Sheriff's Department (the "department") received a request for information seeking documents concerning the use of force complaint reported by Erick Williams "a.k.a." Omar Anderson including the complaint, incident reports, photos, medical records, and descriptions of the event. You contend that the department may deny access to the information pursuant to section 552.027 of the Government Code. Alternatively, you claim that section 552.103 of the Government Code exempts the requested information from required public disclosure.

In this instance you have provided this office with the following information:

Requestor is the mother of Inmate Erick Williams a/k/a Omar Anderson who is the plaintiff involved in litigation in which David Williams, the Sheriff of Tarrant County, is the Defendant. Generally, the action concerns an inmate in the Tarrant County Jail who is alleging the use of excessive force by officers within the Department.

Additionally, on February 14, 1996, the Department received a Public Information Request from inmate Omar Anderson. Inmate Anderson's request was denied.

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Requestor requests a true and correct copy of various reports, names of investigation officers, photographs and medical records of her son

Erick Williams a/k/a Omar Anderson, who is an individual incarcerated in the T.D.C. Connally Unit in Kenedy.

You suggest that the department may ignore or otherwise refuse to comply with the request pursuant to recently enacted section 552.027 of the Government Code, which permits governmental bodies to decline to accept or comply with requests for information submitted by inmates.<sup>1</sup> Section 552.027 states that

(a) A governmental body is not required to accept or comply with a request for information from an individual who is imprisoned or confined in a correctional facility.

(b) Subsection (a) does not prohibit a governmental body from disclosing to an individual described by that subsection information held by the governmental body pertaining to that individual.

(c) In this section, "correctional facility" has the meaning assigned by Section 1.07(a), Penal Code.<sup>2</sup>

Gov't Code § 552.027 (as added by Acts 1995, 74th Leg., ch. 302, §1) (footnote added). You suggest that because Ms. Banks, the person submitting the request, is asking on behalf of a person who is in prison, Ms. Banks is acting as an inmate's *agent* and that, therefore, the department may decline to comply with the request. We agree with your construction for two reasons.

First, we are bound to construe statutes in ways so as not to produce an absurd or unreasonable result. *City of Wilmer v. Laidlaw Waste Sys. (Dallas), Inc.*, 890 S.W.2d 459, 465 (Tex. App.--Dallas 1994), *aff'd*, 904 S.W.2d 656 (Tex. 1995); *see State Highway Dept. v. Gorham*, 162 S.W.2d 934 (Tex. 1942); *Anderson v. Penix*, 161 S.W.2d 455 (Tex. 1942). A construction of section 552.027 that would permit a governmental

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<sup>1</sup> We note initially, however, that access to medical records is governed by the Texas Medical Practice Act. V.T.C.S. art. 4495b.

<sup>2</sup> Section 1.07(a)(14) of the Penal Code provides:

"Correctional facility" means a place designated by law for the confinement of a person arrested for, charged with, or convicted of a criminal offense. The term includes:

- (A) a municipal or county jail;
- (B) a confinement facility operated by the Texas Department of Criminal Justice;
- (C) a confinement facility operated under contract with any division of the Texas Department of Criminal Justice; and
- (D) a community corrections facility operated by a community supervision and corrections department.

body to decline to comply with a request submitted by an inmate, on the one hand, but that would require the governmental body to comply with one submitted by an inmate's agent, on the other, is absurd on its face. We decline to adopt such a construction.

Second, construing the provision to require a governmental body to comply with a request submitted by an inmate's agent while at the same time permitting that governmental body to ignore a request submitted by the inmate himself would entail a manifest circumvention of the provision and frustrate the obvious intent of the legislature when it enacted section 552.027.

We conclude that section 552.027 of the Government Code, which permits a governmental body to decline to accept or comply with a request for information that is submitted by an individual who is imprisoned or confined in a correctional facility, also permits a governmental body to decline to accept or comply with a request that is submitted by that person's agent.<sup>3</sup>

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Don Ballard  
Assistant Attorney General  
Open Records Division

JDB/ch

Ref.: ID# 40080

Enclosures: Submitted documents

cc: Ms. Ronda Banks  
1780 Farleigh Court  
Fort Worth, Texas 76140  
(w/o enclosures)

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<sup>3</sup> Because we have determined that the department may comply with or deny the request for information in this case under section 552.027, we do not address your other stated arguments under section 552.103.