



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

June 27, 1996

Mr. Tim Curry  
Criminal District Attorney  
Tarrant County Justice Center  
401 W. Belknap  
Fort Worth, Texas 76196-0201

OR96-1034

Dear Mr. Curry:

Your ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 40670.

The Tarrant County Jail received a request for information from an attorney representing an inmate incarcerated in a federal penitentiary in Kansas. You ask, initially, whether the request may be denied pursuant to section 552.027 of the Government Code and, in addition, contend that sections 552.101, 552.103, 552.108, and 552.111 of the Government Code except the requested information from required public disclosure.

Section 552.027 provides the following:

(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>1</sup>

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<sup>1</sup>Section 1.07(a)(14) of the Penal Code provides:

Gov't Code § 552.027 (as added by Acts 1995, 74th Leg., ch. 302, §1) (footnote added). We understand you to suggest that, because Ms. Goering, the person submitting the request, is asking on behalf of a person who is in prison, Ms. Goering is acting as an inmate's *agent* and that, therefore, Tarrant County may decline to comply with the request. We agree. As the individual requesting the information at issue is acting on behalf of "an individual who is imprisoned or confined in a correctional facility," the request is subject to section 552.027 of the Government Code. Furthermore, although the incarcerated individual for whom the request is made is confined in a federal correctional facility and, therefore, may not fall within the definition of an individual who is imprisoned or confined in a correctional facility as contemplated by section 552.027(c), we conclude, for two reasons, that section 552.027 is nevertheless applicable in this instance.

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 body to decline to comply with a request submitted by an inmate confined in a correctional facility as defined by section 1.07(a)(14) of the Penal Code, on the one hand, but that would require the governmental body to comply with one submitted by an agent for an inmate who is incarcerated in a federal correctional facility outside the state, 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 agent for an inmate who is incarcerated in a federal correctional facility outside the state while at the same time permitting that governmental body to ignore a request submitted by an agent for an inmate incarcerated in a correctional facility as defined by section 1.07(a)(14) of the Penal Code would entail a manifest

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(Footnote continued)

"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.

circumvention of the provision and frustrate the obvious intent of the legislature when it enacted section 552.027. See *Crimmins v. Lowry*, 691 S.W.2d 582, 584 (Tex. 1985) (“legislative intent is the law itself, and must be enforced if determined although it may not be consistent with the strict letter of the statute”).

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 as defined by section 1.07(a)(14) of the Penal Code, also permits a governmental body to decline to accept or comply with a request that is submitted by an agent for an inmate who is incarcerated in a federal correctional facility outside the state. Accordingly, we conclude that section 552.027 gives you the discretion to either comply with this open records request or deny it in its entirety.<sup>2</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 may not be relied upon as a previous determination regarding any other records. If you have any questions about this ruling, please contact our office.

Yours very truly,



Todd Reese  
Assitant Attorney General  
Open Records Division

RTR/rho

Ref: ID# 40670

Enclosures: Submitted documents

cc: Ms. Beverly Goering  
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(w/o enclosures)

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<sup>2</sup>As we conclude that you have the discretion to comply with or deny this request in its entirety under section 552.027, we need not consider the exceptions you raise.