



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 8, 1998

Ms. Tammy Harrison
Assistant District Attorney
Dallas County
Frank Crowley Courts Building, LB 19
Dallas, Texas 75207-4399

OR98-1618

Dear Ms. Harrison:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 116597.

The Dallas County District Attorney's Office (the "district attorney") received a request for records concerning an individual's 1994 criminal conviction. The requestor is apparently the agent of the individual who was convicted and who is currently an inmate in a correctional facility. You contend that the district attorney need not respond to this request, pursuant to section 552.028 of the Government Code, which provides as follows:

- (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.¹

¹Section 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:

- (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.

Gov't Code § 552.028 (footnote added). This provision permits governmental bodies to decline to accept or comply with requests for information submitted by "an individual who is imprisoned or confined in a correctional facility," as that statute defines correctional facility. We agree that section 552.028 provides that the district attorney need not comply with a request from an individual who requests the information on behalf of an inmate, as the inmate's agent.

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 Dep't v. Gorham*, 162 S.W.2d 934 (Tex. 1942); *Anderson v. Penix*, 161 S.W.2d 455 (Tex. 1942). A construction of section 552.028 that would permit a governmental 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 circumvent and frustrate the obvious intent of the legislature when it enacted section 552.028. A bill analysis for House Bill No. 949 describes the problems that the legislation was designed to prevent:

Currently, Texas inmates are able to receive information through Chapter [552], Government Code (Open Records Act). Through this avenue, inmates have been using information obtained through Chapter [552] to file bogus income tax returns on correctional officers, harass nurses at their home addresses, and send mail to the homes of Texas Department of Criminal Justice employees.

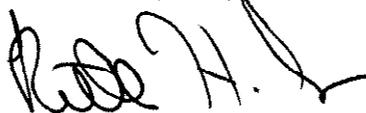
Tex. Sen. Criminal Justice Comm., Bill Analysis, Tex. H.B. 949, 74th Leg., R.S. (1995) (quoting from "Background") (available through Senate Research Center). If an agent of an inmate were permitted to avail himself of the Open Records Act to obtain information on behalf of an inmate who otherwise would be prevented by section 552.028 from obtaining the information, the manifest intention of the legislature would be thwarted. *See Crimmins v. Lawry*, 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").

Thus, we conclude that section 552.028 of the Government Code permits the district attorney to generally decline to accept or comply with a request that is submitted by an inmate's agent.²

²Because we conclude that the department is not required to respond to this request based on section 552.028 of the Government Code, we need not address your other arguments against disclosure.

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.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Ruth H. Soucy', with a stylized flourish at the end.

Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref: ID# 116597

Enclosures: Submitted documents

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