



October 15, 1999

Mr. Gary W. Smith
Legal Advisor
Baytown Police Department
3200 North Main Street
Baytown, Texas 77521

OR99-2936

Dear Mr. Smith:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 129789.

The City of Baytown Police Department (the "department") received a request for case number 90-32807. You claim that the department is not required to respond to the request pursuant to section 552.028 of the Government Code. We have considered your argument and have reviewed the submitted information.

The 76th Legislature amended section 552.028 of the Government Code to provide:

- (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
 - (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.¹

¹Act of May 10, 1999, 76th Leg., R.S., ch. 154, § 1, 1999 Sess. Law Serv. 623 (Vernon) (to be codified as an amendment to Gov't Code § 552.028(a)).

You assert that the individual who is the subject of the police report is currently incarcerated in the Texas Department of Criminal Justice. The request has a notation that indicates that the requestor is the prisoner's mother. Additionally, you assert that the requestor has indicated that she is making the request for her son. Assuming that the requestor is not also an attorney who is representing her son, we agree that Government Code section 552.108 (a)(2) gives the department the discretion whether or not to reply to the request.

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,



Carla Gay Dickson
Assistant Attorney General
Open Records Division

CGD/ch

Ref: ID# 129789

Encl. Submitted documents

cc: Ms. Juanita Samora
10407 Fairview
Crosby, Texas 77532
(w/o enclosures)