



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 3, 2009

Mr. Floyd M. Akers
City Attorney
City of Pflugerville
P.O. Box 679
Pflugerville, Texas 78691-0679

OR2009-01409

Dear Mr. Akers:

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# 337795.

The Pflugerville Police Department (the "department") received a request for a specified affidavit in support of a search warrant. You assert that the department is not required to comply with the request pursuant to section 552.028 of the Government Code.¹ We have considered your argument and reviewed the submitted information.

Section 552.028 provides in relevant part the following:

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

¹Although you raise section 552.027 of the Government Code, you contend that this request should be denied because the requestor is incarcerated in a correctional facility. Thus, we understand you to assert that the department need not comply with this request pursuant to section 552.028 of the Government Code.

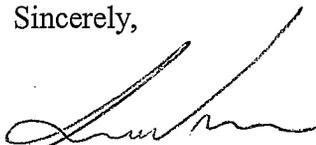
(2) an agent of that individual, other than that individual's attorney when the attorney is requesting information that is subject to disclosure under this chapter.

Gov't Code § 552.028(a). You state that the requestor is incarcerated and the request for information establishes that the requestor is currently incarcerated in a federal correctional facility. *Id.* § 552.028(c) ("correctional facility" is place for confinement of a person arrested for or charged with criminal offense). Thus, because the requestor is an inmate, pursuant to section 552.028 of the Government Code the department may decline to accept or comply with the request for 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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/sdk

Ref: ID# 337795

Enc. Submitted documents

c: Requestor
(w/o enclosures)