



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 2, 2009

Ms. M. Ann Montgomery
Assistant Ellis County & District Attorney
1201 North Highway 77, Suite 104
Waxahachie, Texas 75165-7832

OR2009-04354

Dear Ms. Montgomery:

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# 343395.

The Ellis County Sheriff's Department (the "sheriff") received two requests from the same requestor for a specified police report and its accompanying 9-1-1 recordings. You claim that the sheriff need not comply with the request pursuant to section 552.028 of the Government Code. Alternatively, you claim that the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered your arguments and reviewed the submitted information.

You argue that the sheriff is not required to comply with the request under section 552.028 of the Government Code. Section 552.028 of the Government Code provides:

(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.

(b) This section does not prohibit a governmental body from disclosing to an individual described by Subsection (a)(1), or that individual's agent, information held by the governmental body pertaining to that individual.

Gov't Code § 552.028. You state that the individual at issue in the submitted report and accompanying 9-1-1 recordings is currently confined in a correctional institution. The requestor states in one of her requests that she is this individual's daughter and that she seeks the information at issue on his behalf. Thus, we agree that the requestor is acting as the agent of the incarcerated individual for purposes of section 552.028. Therefore, we conclude that the sheriff need not comply with this request.

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,



Reg Hargrove
Assistant Attorney General
Open Records Division

RJH/eeg

Ref: ID# 34335

Enc. Submitted documents

c: Requestor
(w/o enclosures)