ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 28, 2013

Ms. Patricia Fleming
Assistant General Counsel
Office of the General Counsel
Texas Department of Criminal Justice
P.O. Box 4004
Huntsville, Texas 77342-4004

OR2013-15043

Dear Ms. Fleming:

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# 497884.

The Texas Department of Criminal Justice (the "department") received a request for information pertaining to a named department inmate, including (1) evidence used in a specified accusation, (2) recordings or transcripts of "pre-investigation custody" interviews with the named inmate during a specified time period, and (3) all notes or observations of individuals present during the interview in item two. You claim the department is not required to comply with the request pursuant to section 552.028 of the Government Code, and, alternatively, the requested information is excepted from disclosure under section 552.134 of the Government Code. We have considered your arguments and reviewed the submitted information.

Section 552.028 of the Government Code provides in part the following:

> (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 [the Act].
>
> (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.
>
> (c) In this section, "correctional facility" means:
>
> > (1) a secure correctional facility, as defined by Section 1.07, Penal Code;
> >
> > (2) a secure correctional facility and a secure detention facility, as defined by Section 51.02, Family Code; and
> >
> > (3) a place designated by the law of this state, another state, or the federal government for the confinement of a person arrested for, charged with, or convicted of a criminal offense.

Gov't Code § 552.028(a)-(c). You assert the requestor is the mother of an incarcerated individual and is acting as an agent of her son. You explain, and the submitted request for information reflects, the requestor is not an attorney representing her son, but is acting on behalf of her son, an incarcerated individual. Based on our review of the submitted documents and your representation that the requestor is a representative of an individual who is imprisoned or confined in a correctional facility, we conclude the department need not accept or comply with the request for information pursuant to section 552.028.[1]

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.

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[1]As our ruling is dispositive, we do not address your argument to withhold this information under the Act.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/akg

Ref: ID# 497884

Enc. Submitted documents

c: Requestor
(w/o enclosures)