



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 14, 2016

Mr. Jonathan T. Koury
Assistant City Attorney
City of Bryan
P.O. Box 1000
Bryan, Texas 77805

OR2016-05771

Dear Mr. Koury:

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# 602434.

The City of Bryan (the "city") received a request for crime scene photographs related to case number 88-1100457. You argue pursuant to section 552.028 of the Government Code, the city need not accept or comply with the request for information. In the alternative, you claim the submitted information is excepted from disclosure under section 552.1085 of the Government Code. We have considered the submitted arguments and reviewed the submitted information. We have also received and considered comments from the requestor. *See Gov't Code § 552.304* (interested party may submit comments stating why information should or should not be released).

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). The city asserts, and provides documentation demonstrating, the requestor was hired by the wife of an incarcerated individual, who seeks the information at issue on behalf of the incarcerated individual for purposes of creating a report that will be attached to the incarcerated individual's *habeas corpus* brief. Thus, you explain, and the submitted documentation reflects, the requestor is acting on behalf of an individual who is an agent of an incarcerated individual, but is not an attorney representing the inmate. Based on our review of the submitted documentation and your representation that the requestor is acting on behalf of an agent of an individual who is imprisoned or confined in a correctional facility, we conclude pursuant to section 552.028 of the Government Code, the city is not required to accept or comply with the request for information. As we are able to make this determination, we do not address your claimed exception to disclosure of the 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.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,

A handwritten signature in black ink, appearing to read "Claire Morris Sloan". The signature is fluid and cursive, with a long horizontal stroke at the end.

Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/som

Ref: ID# 602434

Enc. Submitted documents

c: Requestor
(w/o enclosures)