



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

October 4, 2016

Mr. Zachary Brown  
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TDCJ - Office of the General Counsel  
P.O. Box 4004  
Hunstville, Texas 77342-4004

OR2016-22253

Dear Mr. Brown:

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# 632789.

The Texas Department of Criminal Justice (the "department") received a request for a specified report. You state you have no information responsive to a portion of the request.<sup>1</sup> You argue pursuant to section 552.028 of the Government Code, the department need not comply with the request for information. Alternatively, you claim the submitted information is excepted from disclosure under section 552.134 of the Government Code. We have considered your claims and reviewed the submitted information.

Section 552.028 of the Government Code provides, in relevant part:

(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

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<sup>1</sup>The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983).

(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.

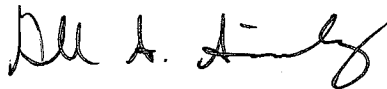
(b) This section does not prohibit a governmental body from disclosing to an individual described by Subsection (a)(1), or that individual's agent, information held by the governmental body pertaining to that individual.

Gov't Code § 552.028. You inform us the individual named in the request is an inmate in a correctional facility. *See id.* § 552.028(c) ("correctional facility" is a place for the confinement of a person arrested for, charged with, or convicted of a criminal offense). You state the requestor is the mother of the named inmate, and is not the attorney for the named inmate. Further, you state the requestor asks the submitted information be sent directly to the named inmate. Thus, you contend the requestor is acting as the agent of the named inmate and assert, pursuant to section 552.028, the department is not required to accept or comply with this request. Upon review, we agree section 552.028 of the Government Code is applicable in this instance and conclude the department need not comply with this request.<sup>2</sup>

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](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,



Gerald A. Arismendez  
Assistant Attorney General  
Open Records Division

GAA/dls

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<sup>2</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure.

Ref: ID# 632789

Enc. Submitted documents

c: Requestor  
(w/o enclosures)