



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 26, 2017

Ms. Stephanie Walker
Legal Assistant Civil Division
Comal County
150 North Seguin Avenue, Suite 307
New Braunfels, Texas 78130

OR2017-08794

Dear Ms. Walker:

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# 655097 (File No. 170R-019).

Comal County and the Comal County District Attorney's Office (collectively, the "county") received three requests from the same requestor for specified oaths of office and specified financial information. You state the county does not possess some of the requested information.¹ You claim the county need not comply with the request pursuant to section 552.028 of the Government Code. Alternatively, you claim the submitted information is excepted from disclosure under section 552.103 of the Government Code. We have considered your arguments and reviewed the submitted information.

Section 552.028 of the Government Code provides the following:

¹The 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).

(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. You state, and the submitted documentation demonstrates, the requestor is the representative of an individual who is currently confined in a correctional facility. Based on your representations, the submitted documentation, and our review, we agree the requestor is a representative of an individual who is imprisoned or confined in a correctional facility. Accordingly, the county need not accept or comply with the request for information pursuant to section 552.028 of the Government Code. As we are able to make this determination, we need not address your argument against disclosure.

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 "Ashley Crutchfield". The signature is written in a cursive style with a large initial "A".

Ashley Crutchfield
Assistant Attorney General
Open Records Division

AC/bw

Ref: ID# 655097

Enc. Submitted documents

c: Requestor
(w/o enclosures)