



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 29, 2019

Mr. Paul E. Fulbright
Assistant District Attorney
Navarro County
300 West 3rd Avenue, Suite 301
Corsicana, Texas 75110

OR2019-30525

Dear Mr. Fulbright:

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# 794171.

The Navarro County Sheriff's Office (the "sheriff's office") received a request for information pertaining to a named individual and specified addresses.¹ The sheriff's office claims either it is not required to release the submitted information pursuant to section 552.028 of the Government Code or the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the submitted arguments and reviewed the submitted information.

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

- (a) A governmental body is not required to accept or comply with a request for information from:

¹The sheriff's office sought and received clarification of the information requested. *See* Gov't Code § 552.222 (if request for information is unclear, governmental body may ask requestor to clarify request); *see also City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (if governmental entity, acting in good faith, requests clarification of unclear or over-broad request, ten-day period to request attorney general ruling is measured from date request is clarified).

(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.

...

(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.

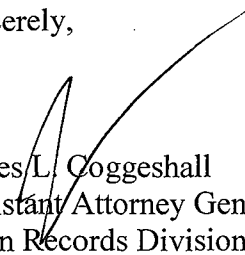
Gov't Code § 552.028(a), (c). Although the sheriff's office claims it is not required to accept or comply with the request for information, we conclude the sheriff's office has not established the requestor is requesting information on behalf of the incarcerated individual at issue. Thus, we find the sheriff's office has failed to demonstrate the request for information was submitted by an agent of an individual who is imprisoned or confined in a correctional facility. Accordingly, section 552.028 of the Government Code does not permit the sheriff's office to decline to comply with this request. Therefore, we will address the arguments of the sheriff's office to withhold the responsive information at issue under the Act.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. *Id.* § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the information at issue relates to a criminal investigation that has concluded in a final result other than conviction or deferred adjudication. *See id.* §§ 552.108(a)(2), .301(e)(1)(A). The sheriff's office states the submitted information pertains to a case that concluded in a result other than conviction or deferred adjudication. Therefore, the sheriff's office may withhold the submitted information under section 552.108(a)(2) of the Government Code.

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/rm

Ref: ID# 794171

Enc. Submitted documents

c: Requestor
(w/o enclosures)