



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 29, 1998

Ms. Patricia Blackshear
Assistant City Attorney
City of College Station
P. O. Box 9960
College Station, Texas 77842

OR98-2545

Dear Ms. Blackshear:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 119122.

The City of College Station (the "city") received an open records request from an attorney who is representing an individual that received a traffic citation for driving the wrong way on a one-way street. Specifically, the requestor seeks "the arresting officer's name, address and phone number as well as a listing of all tickets issued at the same location two hours before and two hours after my client received his."

With regard to the requested list of traffic citations, you state that the city

does not keep records in the exact form requested, nor do we possess capabilities to compile such information through a computer program. Some of the information requested would have to be compiled manually by sorting through all the traffic citations issued on the date in question.

It is well-established that the Open Records Act does not require a governmental body to prepare new information in response to an open records request. Open Records Decision No. 342 (1982). Nor does the Open Records Act require the preparation of information in the form requested by a member of the public. Open Records Decision No. 145 (1976); *see also* Open Records Decision No. 347 (1982). For example, in Open Records Decision No. 347, this office indicated that the act does not require a governmental body to answer factual questions or to, in effect, respond to legal interrogatories. The act applies to information already transcribed into tangible form. Because you state that the

requested list of citations does not exist, we conclude that the city is not required to compile such a list for the requestor.

You have, however, submitted to this office a representative sample of responsive traffic citations that you seek to withhold pursuant to the "litigation" exception, section 552.103 of the Government Code.¹ We note, however, that all of these documents have been filed with the municipal court. Because you seek to withhold these records pursuant to section 552.103, rather than as records of the judiciary, we assume that these records are but copies of public court records that the city holds in a non-judicial capacity.² A governmental body normally may not withhold public court records from public disclosure pursuant to any of the Open Records Act's exceptions. *Cf. Star-Telegram v. Walker*, 834 S.W.2d 54 (Tex. 1992) (information contained in public court records not protected by common-law privacy). Consequently, assuming the requested traffic citations in fact are subject to the Open Records Act, the city may not withhold the requested records pursuant to section 552.103.³

The requestor also seeks the name, address, and telephone number of the police officer that issued the citation. Section 552.117(2) of the Government Code protects the home addresses and telephone numbers of "a peace officer as defined by Article 2.12, Code of Criminal Procedure, or a security officer commissioned under Section 51.212, Education

¹Section 552.103(a) of the Government Code excepts from required public disclosure information

(1) relating to litigation of a civil or criminal nature or settlement negotiations, to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person's office or employment, is or may be a party; and

(2) that the attorney general or the attorney of the political subdivision has determined should be withheld from public inspection.

²Section 552.003 of the Government Code defines the entities that constitute "governmental bodies" under the act. Subsection 552.003(1)(B) specifically excludes the judiciary from the terms of the act. Consequently, records of the judiciary do not fall within the scope of the Open Records Act. *See, e.g.*, Open Records Decision Nos. 274 (1981), 25 (1974).

³If, on the other hand, the records submitted to this office in fact are those of the judiciary, this office is without authority to require their release or authorize their non-disclosure. Open Records Decision No. 25 (1974). We note, however, that Texas courts have long recognized a common-law right to copy and inspect certain judicial records. Attorney General Opinion DM-166 (1992); Open Records Decision No. 618 (1993).

Code.” Unlike non-peace officer public employees, a peace officer need not affirmatively claim confidentiality for this information. Open Records Decision No. 488 (1988); *see also* Open Records Decision No. 506 (1988). The city therefore must withhold the officer’s home address and telephone number from the requestor. We note, however, that because the officer’s name appears on the traffic citation that has been filed with the municipal court, this information is public and must be released.⁴ *Cf. Star Telegram*, 834 S.W.2d at 54.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Don Ballard
Assistant Attorney General
Open Records Division

JDB/RWP/nc

Ref.: ID# 119122

Enclosures: Submitted documents

cc: Mr. Joseph Hanover Nance
303 College Main, Suite A
College Station, TX 77840
(w/o enclosures)

⁴Because we resolve your request on other grounds, we need not specifically address the applicability of the exception you raised.