



July 29, 2002

Ms. Angela M. DeLuca
Assistant City Attorney
City of College Station
P.O. Box 9960
College Station, Texas 77842

OR2002-4117

Dear Ms. DeLuca:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 166437.

The City of College Station Municipal Court (the “court”) received a request for copies of traffic citations issued by a specified city police department officer between a specified period of time on a specified date. The requestor also seeks a copy of the traffic citation issued by this officer or an accompanying officer for a particular time on this date. You state that the city has released to the requestor a copy of the traffic citation that was issued to him during the requested period of time. You claim, however, that the remaining requested information is excepted from disclosure pursuant to sections 552.103 and 552.108 of the Government Code. We have considered the exceptions you claim and have reviewed the submitted information. We have also considered comments submitted by the requestor. *See* Gov’t Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released).

We note that the Public Information Act (the “Act”) only applies to information that is “collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business by a governmental body.” Gov’t Code § 552.002(a)(1). It does not apply to records of the judiciary. *See* Gov’t Code § 552.003(1)(B). Information that is “collected, assembled or maintained by . . . the judiciary” is not subject to the Act. Gov’t Code § 552.0035(a); *see also* Tex. Sup. Ct. R. 12. Consequently, records of the judiciary need not be released under the Act. *See* Attorney General Opinion DM-166 (1992). *But see Benavides v. Lee*, 665 S.W.2d 151 (Tex. App.--San Antonio 1983, no writ); Open

Records Decision No. 646 (1996) at 4 (“function that a governmental entity performs determines whether the entity falls within the judiciary exception to the Open Records Act.”). Because the request for information in this instance was received by the court, any responsive information that would be produced by the court would not be subject to the Act. *See* Gov’t Code § 552.003(1)(B). Accordingly, we conclude that to the extent such records may exist, they are records of the judiciary and are, thus, not subject to the Act. *See* Attorney General Opinion DM-166 (1992). We note, however, that as records of the judiciary, such responsive information may be made public by other sources of law. *See* Attorney General Opinions DM-166 at 2-3 (1992) (public has general right to inspect and copy judicial records), H-826 (1976); *see also* Open Records Decision No. 25 (1974); *Star Telegram, Inc. v. Walker*, 834 S.W.2d 54, 57 (Tex. 1992) (documents filed with courts are generally considered public and must be released). Additionally, such responsive information may be subject to disclosure under statutory law that governs municipal courts. *See* Gov’t Code § 29.007(d)(4) (complaints filed with municipal court clerk); *see also id.* § 29.007(f) (municipal court clerks shall perform duties prescribed by law for county court clerk); Local Gov’t Code § 191.006 (records belonging to office of county clerk shall be open to public unless access restricted by law or court order); Tex. Sup. Ct. R. 12. Because we find that any responsive records that may exist are not subject to the Act, we need not address the applicability of your claimed exceptions to disclosure to the submitted information.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body’s intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general’s Open Government Hotline, toll free, at 877/673-6839.

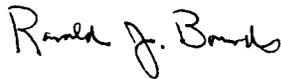
The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Ronald J. Bounds
Assistant Attorney General
Open Records Division

RJB/seg

Ref: ID# 166437

Enc. Submitted documents

cc: Mr. Brian S. Bochner
5111 Bellerive Bend Drive
College Station, Texas 77845
(w/o enclosures)