



November 8, 2002

Mr. Kie Watkins
Assistant County/District Attorney
Oldham County
P.O. Box 698
Vega, Texas 79092

OR2002-6378

Dear Mr. Watkins:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 171952.

The Oldham County Justice of the Peace Court (the "court") received a request for "traffic citation information for all defendants who are eligible as well as defendants who have been granted permission by the court to attend an approved 6-hour driver improvement program." You assert that the court is not subject to the Public Information Act (the "Act") pursuant to section 552.003 of the Government Code. Alternatively, you claim that the requested information is excepted from disclosure under sections 552.103 and 552.130 of the Government Code and rule 12 of the Texas Rules of Judicial Administration. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note that the Act does not govern access to judicial records. *See* Gov't Code §§ 552.003(1)(B) (providing that the term "[g]overnmental body" . . . does not include the judiciary"), .0035 (providing that access to information collected, assembled, or maintained by judiciary is governed by rules adopted by Texas Supreme Court or by other applicable laws and rules); *see also Benavides v. Lee*, 665 S.W.2d 151 (Tex. App.--San Antonio 1983, no writ). Therefore, the Act "neither authorizes information held by the judiciary to be withheld nor requires it to be disclosed." Open Records Decision No. 25 at 3 (1974) (construing statutory predecessor). Because a justice of the peace is a member of the judiciary, the records that a justice maintains are not subject to the Act. *See* Tex. Const. Art. V, § 1; Open Records Decision No. 25 (1974).

However, we note 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, the records may be subject to disclosure under statutory law. *See* Gov't Code § 27.004 (all papers filed in case in justice court are subject to inspection of any interested party at reasonable times); Loc. 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). 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).

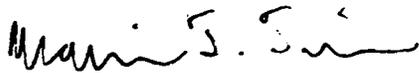
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following 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,



Maverick F. Fisher
Assistant Attorney General
Open Records Division

MFF/seg

Ref: ID# 171952

Enc. Submitted documents

c: Ms. Linda Larrabee
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