OFFICE *of the* ATTORNEY GENERAL
GREG ABBOTT

December 19, 2002

Mr. Gary W. Hutton
Civil District Courts Administrator
Bexar County Courthouse
100 Dolorosa
San Antonio, Texas 78205

OR2002-7287

Dear Mr. Hutton:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 174018.

The Bexar County Central Jury Room Bailiff (the "bailiff") received a written request for information pertaining to the number of jury trials heard by County Court at Law No. 3 for calendar years 1997, 1998, 1999, 2000, and 2001. You contend that the requested information constitutes "records of the judiciary" that are excepted from required disclosure pursuant to section 552.003 of the Government Code.

As a general rule, the judiciary is exempt from the provisions of the Public Information Act (the "Act"), *see* Gov't Code § 552.003(1)(B), but only when acting in a judicial capacity. *See Benavides v. Lee*, 665 S.W.2d 151 (Tex. App.--San Antonio 1983, no writ) (juvenile board not an extension of the judiciary); *see also* Open Records Decision No. 188 (1978) (applications held by a municipality for the position of municipal judge may not be withheld on the basis of the exemption for the judiciary). The bailiff is in charge of the central jury room. Gov't Code § 62.019(b). The bailiff's responsibilities include the "care of the general panel," the "supervision of the central jury room," and the notification of "prospective jurors whose names are drawn from the jury wheel or selected by other means provided by law to appear for jury service." Gov't Code § 62.019(d). We therefore conclude that the bailiff acts as an agent of the judiciary and that records held by the bailiff in connection with his official duties constitute judicial records. Consequently, in this instance, the Act neither authorizes the requested information to be withheld nor requires it to be disclosed. Open Records Decision No. 25 (1974). Consequently, the bailiff is not required to release the requested information under the Act. Attorney General Opinion DM-166 (1992). *But see* Rule 12 of Texas Rules of Judicial Administration (making certain judicial records subject to public inspection).

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,

Montgomery M. Meitler
Assistant Attorney General
Open Records Division

MMM/RWP/lmt

Ref: ID# 174018

Enc: Submitted documents

c: Mr. David J. Rodriguez
1230 Vista del Juez
San Antonio, Texas 78216
(w/o enclosures)