OFFICE *of the* ATTORNEY GENERAL
GREG ABBOTT

January 7, 2003

Mr. Lawrence G. Provins
Assistant City Attorney
City of Pearland
3519 Liberty Drive
Pearland, Texas 77581

OR2003-0115

Dear Mr. Provins:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 174640.

The City of Pearland Municipal Court (the "court") received a request for copies of rap sheets, booking sheets, and case reports for any arrests pertaining to two specified individuals. You claim that some of the requested information is excepted from disclosure pursuant to section 552.101 of the Government Code. We have considered the exception you claim.

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 held 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); 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 exception to disclosure.

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).

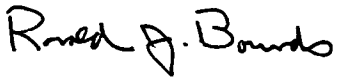
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following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

Enc. Submitted documents

Ref: ID# 174640

c: Ms. Delois J. Tarver
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(w/o enclosures)