ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 22, 2005

Mr. Stephen L. Mitchell
Culberson County Attorney
Culberson County Courthouse
P. O. Box 276
Van Horn, Texas 79855

OR2005-11522

Dear Mr. Mitchell:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 242991.

The Culberson County Justice of the Peace for Precinct 1, Place 1 (the "court") received a request for information pertaining to people who have been authorized to take a defensive driving safety course. You claim that the courts are not subject to the Public Information Act (the "Act"). We agree.

A justice of the peace is a member of the judiciary. Section 552.003(b) of the Government Code excludes the judiciary from the Act. Therefore, the Act neither authorizes information held by the judiciary to be withheld nor requires that it be disclosed. *See* Open Records Decision No. 25 (1974). Accordingly, the requested information is not subject to public disclosure under chapter 552 of the Government Code, and the Open Records Division does not have the authority to rule on records maintained by the judiciary. Gov't Code § 552.0035 (access to information maintained by or for judiciary is governed by rules adopted by supreme court); *see* Tex. R. Jud. Admin. 12 (public access to judicial records). However, Texas courts have long recognized a common-law right to copy and inspect certain judicial records. Attorney General Opinion DM-166 at 2-3 (1992) (public has general right to inspect and copy judicial records), H-826 (1976); Open Records Decision Nos. 618 (1993), 25 (1974); *see 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).

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).

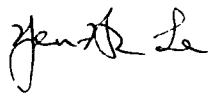
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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 Dep't of Pub. 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 Office of the Attorney General 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. 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,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/krl

Ref: ID# 242991

c: Ms. Michelle Pumphrey
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