



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 28, 2006

Mr. Ron G. MacFarlane, Jr.  
Dealey, Zimmermann, Clark, Malour & MacFarlane, P.C.  
3131 Turtle Creek Blvd., Suite 1201  
Dallas, Texas 75219-5415

OR2006-06863

Dear Mr. MacFarlane:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 253406.

The Cedar Hill Police Department (the "department"), which you represent, received a request for all documents in connection with citation number 87125, all documents produced in connection with officers being called to two specific addresses, all violations of the noise ordinance since January 1, 2004, as well as all body microphone and video tapes relating to the above addresses and citation. You state that the department is producing most of the requested information. We understand you to claim that the remaining requested information is not subject to the Act. In the alternative, you claim that this information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered your arguments and reviewed the submitted information.

Initially, we note that you state that the submitted information, which concerns noise violations, is maintained by the Cedar Hill Municipal Court. The Act does not apply to records of the judiciary. Gov't Code § 552.003(1)(B). Because the court is part of the judiciary, these records need not be released under the Act, and we need not address your arguments against disclosure. Attorney General Opinion DM-166 (1992). As records of the judiciary, however, the information may be public by other sources of law. *See* Gov't Code §§ 29.007(d)(4) (complaints filed with municipal court clerk), 29.007(f) (municipal court clerks shall perform duties prescribed by law for county court clerk); 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); *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); *see also* Attorney General Opinions DM-166 (1992) at 2-3 (public has general right to inspect and copy judicial records), H-826 (1976); Open Records Decision No. 25 (1974).

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,



Matthew T. McLain  
Assistant Attorney General  
Open Records Division

MM/krl

Ref: ID# 253406

Enc. Submitted documents

c: Ms. Gwen Gabriel  
1160 South Joe Wilson Road  
Cedar Hill, Texas 75104  
(w/o enclosures)