



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 5, 1998

Mr. Dwade R. King
County Attorney
Jones County
P.O. Box 68
Anson, Texas 79501

OR98-1409

Dear Mr. King:

On behalf of Jones County (the "county"), you ask whether certain information is subject to required public disclosure under the Open Records Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 115566.

The custodian of records for Jones County, Judge, Commissioners, Sheriff, *Treasurer*/*Auditor and Justice of the Peace* received two requests for numerous items of information.¹ As for the open records request directed to the Jones County Justice of the Peace you argue that the requested records need not be disclosed under the Open Records Act, because they are records of the judiciary. In response to the other request for information, directed to the various county officials, you state that portions of the requested information are available for public release. However, as for the remaining information subject to the request, you state that, to your knowledge, the county cannot provide the requestor with the information sought for a variety of reasons discussed below.

Initially, we address the request to the Justice of the Peace. You argue that the requested records need not be disclosed under the act, since they are records of the judiciary. We agree. The act does not apply to records of the judiciary. Gov't Code § 552.003(B). As for the records maintained by the court, they need not be released under the act. Attorney General Opinion DM-166 (1992). As records of the judiciary, however, the information may be public by other sources of law. Attorney General Opinions DM-166 (1992) at 2-3 (public

¹Each elected county officer is the officer for public information and the custodian, as defined by section 201.003 of the Local Government Code, of the information created or received by that county officer's office. Gov't Code § 552.201(b).

has general right to inspect and copy judicial records), H-826 (1976); Open Records Decision No. 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).²

Next, we consider the request directed to the entities represented by your office. In reference to request items G and K of the request to the county, you state that you do not know what is meant by "Justice Docket," and "deferment agreement." If what information is requested is unclear to a governmental body, the governmental body may ask the requestor to clarify the request. Gov't Code § 552.222(b).

You also contend that request items A, B, D, H, I, and O are "overbroad." We note that when a governmental body is presented with a broad request for information rather than for specific records, it should advise the requestor of the types of information available so that he may narrow or clarify his request.³ Open Records Decision Nos. 563 (1990), 561 (1990). Furthermore, a governmental body must make a good faith effort to relate a request to information which it holds. Open Records Decision Nos. 561 (1990), 555 (1990), 379 (1983), 347 (1982). In other words, if the county is able to identify documents in its possession from which the requestor could obtain the information that he is seeking, the county should provide the requestor access to those documents, unless the information is subject to an exception.

As for request items C, E, F, L, and N, you state that the information either does not exist or is not in the possession of the county. The act does not apply to information that does not exist. *See* Open Records Decision No. 555 (1990). Nor does chapter 552 require a governmental body to prepare new information in response to a request. *Economic Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.--San Antonio, 1978, writ *dism'd*); *see also* Open Records Decision Nos. 572 (1990), 342 (1982), 87 (1975).

You also inform this office that information responsive to item J of the request "can be supplied in accordance with Section 552.261 of the Government Code." This office does not address cost questions arising from requests for public information under the Open Records Act. Section 552.261 of the Government Code provides that the cost of providing copies of public information "shall be an amount that reasonably includes all costs related to reproducing the public information, including costs of materials, labor, and overhead."

²Additionally, the records may be subject to disclosure under statutory law governing municipal courts. *See* Gov't Code § 29.007(d)(4) (complaints filed with municipal court clerk); *id.* § 29.007(f) (municipal court clerks shall perform duties prescribed by law for county court clerk); Local 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).

³A governmental body should discuss with the requestor how the scope of a request might be narrowed if a large amount of information has been requested. Gov't Code § 552.222(b).

The Texas General Services Commission sets rules specifying the methods and procedures for determining such costs. Gov't Code § 552.262. Consequently, you should contact the Texas General Services Commission if you have questions concerning the cost of providing copies of public information. We suggest that you contact the open records administrator at the General Services Commission at (512) 475-2497.

In conclusion, we note that once the county receives clarification, concerning the arguably vague or broad portions of the request, you must seek another decision from this office for any records the county seeks to withhold. We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Sam Haddad". The signature is written in a cursive style with a large, looping initial "S".

Sam Haddad
Assistant Attorney General
Open Records Division

SH/rho

Ref.: ID# 115566

cc: Mr. T. William Crane
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