



May 9, 2000

Ms. Susan C. Rocha  
City Attorney  
Denton, McKamie & Navarro  
1700 Tower Life Building  
310 South St. Mary's Street  
San Antonio, Texas 78205-3111

OR2000-1783

Dear Ms. Rocha:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code (the "Act"). Your request was assigned ID# 135003.

The City of Boerne (the "city") received a request for certain records of the municipal court during a specified time interval, including citations issued to juveniles for disorderly conduct, dispositions of such citations, and the policy or procedure for their adjudication. You have made a portion of the requested information available to the requestor. You claim that the requested citations and dispositions are excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and have reviewed the information you submitted.<sup>1</sup>

We initially note that the submitted information consists of a list of citations, an individual citation, and a disposition of a case by the municipal court. You have not informed us whether the submitted records are maintained generally by the city or exclusively by the municipal court. The Public Information Act does not govern access to judicial records. See Gov't Code § 552.003(1)(B) (providing that under the Act, the term "governmental body" . . . does not include the judiciary"); see also *Benavides v. Lee*, 665 S.W.2d 151 (Tex.

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<sup>1</sup>We assume that the records that you submitted are a truly representative sample of the requested records as a whole. This letter ruling does not reach any records that are substantially different from the records that were submitted to this office. In the future, the city should either submit the specific records requested or inform this office that it is submitting a representative sample of the requested information. See Gov't Code §§ 552.301(e)(1)(D), 552.302; Open Records Decision Nos. 499 at 6 (1988), 497 at 4 (1988).

App.--San Antonio 1983, no writ). Therefore, if the submitted records are records of the municipal court itself, the Act is not applicable to those records. *See* Attorney General Opinion DM-166 at 1 (1992) (stating that Act “neither authorizes information held by the judiciary to be withheld nor requires it to be disclosed”). We note, however, that certain judicial records may be open to the public under other sources of law. *See Star-Telegram, Inc. v. Walker*, 834 S.W.2d 54 (Tex. 1992) (documents filed with a court generally are considered to be public); Attorney General Opinion DM-166 at 3 (1992) (public has general right to inspect and copy judicial records); Open Records Decision No. 25 at 3 (1974) (addressing public’s right to inspect records of a justice of the peace).

If the submitted information is contained in records maintained by the city, then the Act governs access to such information. Section 552.022 of the Act, which governs the release of certain specified categories of information, provides in relevant part:

(a) Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are public information and not excepted from required disclosure under this chapter *unless they are expressly confidential under other law*:

...

(17) information that is also contained in a public court record[.]

Gov’t Code § 552.022(a)(17) (emphasis added). Thus, information contained in the city’s records that also is a matter of public court record must be released, pursuant to section 552.022(a), unless other law expressly makes that information confidential.

You claim that the submitted information is confidential under section 552.101 of the Act, which excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. Statutory confidentiality under section 552.101 generally requires express language making certain information confidential or stating that certain information shall not be released to the public. *See* Open Records Decision No. 478 at 2 (1987). You assert that “juvenile offender records held by law enforcement agencies are now expressly confidential under section 58.007 of the Family Code.” Section 58.007 provides in relevant part:

(a) This section applies only to the inspection and maintenance of a physical record or file concerning a child and the storage of information, by electronic means or otherwise, concerning the child from which a physical record or file could be generated and does not affect the collection, dissemination, or maintenance of information as provided by Subchapter B. This section does not apply to a record or file relating to a child that is:

...

(2) maintained by a municipal or justice court[.]

Fam. Code § 58.007(a). Thus, section 58.007 of the Family Code does not provide for the confidentiality of juvenile records and files that are maintained by a municipal court. In this instance, the requestor specifically seeks information contained in municipal court records, and you have not informed us that the submitted information is not contained in such records. Accordingly, if the requested records represent information held by the city that also is a matter of municipal court record, the requested information is not confidential under section 552.101 and therefore must be released pursuant to section 552.022(a)(17).

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).

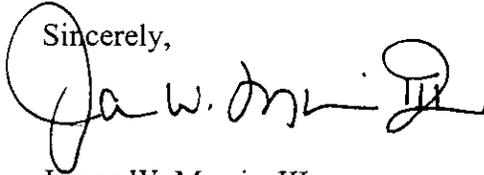
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following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

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,

A handwritten signature in black ink, appearing to read "James W. Morris, III". The signature is written in a cursive style with a large initial "J" and a distinct "III" at the end.

James W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/ljp

Ref: ID# 135003

Encl. Submitted documents

cc: Ms. Linda Y. Chew  
Advocacy, Inc.  
215 North Stanton, Suite 502  
El Paso, Texas 79901  
(w/o enclosures)