



August 23, 2000

Mr. K. Scott Oliver
Assistant Criminal District Attorney
Civil Section
Bexar County
300 Dolorosa, Fifth Floor
San Antonio, Texas 78205-3030

OR2000-3229

Dear Mr. Oliver:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 1386392.

You state that the Bexar County Justice of the Peace Courts, District Clerk, and the County Clerk's Offices each received a written request under the Public Information Act for a list of all "open warrants" held by those entities. You inquire whether the requested information is exempted from disclosure under chapter 552 of the Government Code.

As a general rule, the judiciary is exempt from the Public Information Act, *see* Gov't Code § 552.003(1)(B), but only when acting in a judicial capacity. *See Benavides v. Lee*, 665 S.W.2d 151 (Tex. App.--San Antonio 1983, no writ), (juvenile board not an extension of the judiciary); *see also* Open Records Decision No. 188 (1978) (applications held by a municipality for the position of municipal judge may not be withheld on the basis of the exemption for the judiciary). The justice courts, the county clerk, and the district clerk act in their judicial capacity when they maintain documents relevant to a criminal prosecution. Thus, in this instance, the Public Information Act neither authorizes the requested information held by the justices of the peace, the county clerk, or the district clerk to be withheld nor requires it to be disclosed. Open Records Decision No. 25 (1974). Consequently, these three entities not required to release these records under the Public Information Act. Attorney General Opinion DM-166 (1992). *But see id.* at 2-3 (public has general right to inspect and copy judicial records); *see, e.g.*, Gov't Code § 27.004(a) (justice's dockets, books, and papers filed in connection with case before justice court subject to public inspection); Loc. Gov. Code § 191.006 (records of county clerk generally subject to public inspection).

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,



Michael Jay Burns
Assistant Attorney General
Open Records Division

MJB/RWP/ljp

Ref: ID# 138639

cc: Mr. Billy Wells
P.O. Box 290002
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