OFFICE *of the* ATTORNEY GENERAL
GREG ABBOTT

April 11, 2003

Mr. J. David Dodd, III
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.
500 North Akard, Suite 1800
Dallas, Texas 75201

OR2003-2447

Dear Mr. Dodd:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 179314.

The City of Allen Municipal Court (the "court"), which you represent, received a written request for all evidence pertaining to a specified cause number. You contend that the requested information is excepted from required disclosure pursuant to sections 552.103 and 552.108 of the Government Code.

We note, however, that as a general rule, the judiciary is exempt from the provisions of the Public Information Act (the "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). We conclude in this instance that the requestor in fact is seeking judicial records. Consequently, the Act neither authorizes the requested information to be withheld nor requires it to be disclosed. Open Records Decision No. 25 (1974). We therefore conclude that the court is not required to release the requested information under the Act. Attorney General Opinion DM-166 (1992). *But see* Rule 12 of Texas Rules of Judicial Administration (making certain judicial records 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).

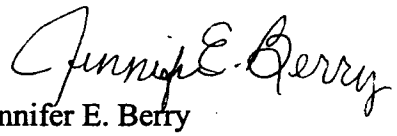
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

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 Texas Building and Procurement Commission 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. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code

§ 552.325. 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,



Jennifer E. Berry
Assistant Attorney General
Open Records Division

JEB/RWP/seg

Ref: ID# 179314

c: Mr. Thomas J. Musso, Jr.
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