



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 22, 2005

Ms. Ashley D. Fourt
Assistant District Attorney
Justice Center
401 W. Belknap
Fort Worth, Texas 76196-0201

OR2005-10580

Dear Ms. Fourt:

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# 235876.

The Tarrant County Sheriff's Department (the "sheriff's department") received two requests from the same requestor for several categories of bail bonds. You state that some of the requested information has been or will be released to the requestor upon payment of charges. You also state that you have no information responsive to a portion of the request.¹ You argue that the submitted information constitutes records of the judiciary that are excluded from the Act's coverage. In the alternative, you argue that this information is excepted from disclosure under section 552.101 of the Government Code. We have considered your arguments and reviewed the submitted information.

Initially, we note that the sheriff's department asked the requestor to clarify certain portions of the request for information. A governmental body may communicate with a requestor for the purpose of clarifying or narrowing a request for information. See Gov't Code

¹The Act does not require a governmental body to disclose information that did not exist at the time the request was received. *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.-San Antonio 1978, writ dismissed); Open Records Decision No. 452 at 3 (1986).

§ 552.222(b); Open Records Decision No. 663 at 2-5 (1999). It does not appear that the sheriff's department has received a response to its request for clarification. Accordingly, we find that the county has no obligation at this time to release any information that may be responsive to those portions of the request for information. Please note, however, that if the sheriff's department receives a response to its request for clarification and wishes to withhold any information to which the requestor seeks access, the sheriff's department must request another decision. *See* Gov't Code §§ 552.301, 552.302.

Records of the judiciary are not subject to required public disclosure under the Act.² *See* Gov't Code §§ 552.003(1)(A), (B) (definition of "governmental body" under Act specifically excludes the judiciary), .021 (Act generally requires disclosure of information maintained by "governmental body"). Pursuant to our section 552.303 request, the sheriff's department informs us that the requested information is "maintained only in the county's criminal database." You further note that the information sought does not exist in any other format other [than] what is generated from the county's criminal computer database." In connection with a previous ruling to the Tarrant County District Attorney's Office (the "district attorney's office"), this office was informed of two court orders and an agreement that apply to the electronic information requested in this instance. *See* Open Records Letter No. 2000-4694 (2000). In 1995, the presiding district court judges in Tarrant County entered an order which states that court records kept by or for the judiciary on the county's database of criminal records, including records kept or maintained by the sheriff and district attorney's office, are records of the judiciary to which the Act does not apply. *Order Approving Dial-In Access to Court Records* (Tarrant County, Tex. Sept. 6, 1995). This order further provides for limited computer dial-in access to these records. *Id.* Pursuant to this order, the Tarrant County district clerk, county clerk, district attorney's office, and sheriff entered into an agreement to provide dial-in access for the public to the county criminal database. *Agreement to Provide Dial-In Access to Court Records* (Tarrant County, Tex. Feb. 8, 1996). In 2000, several of the presiding district court judges entered a second court order which prohibits access to the county criminal database in any manner inconsistent with the dial-in access outlined in the first court order. *Order Directing the County Administrator, the County's Information Technologies Department and the Tarrant County District Clerk From Providing Access to Judicial Records in Any Manner Not Consistent with the Order Approving Dial-In Access to Court Records* (Tarrant County, Tex. Oct. 3, 2000). We understand that the court orders and agreement remain in place and encompass the electronic information at issue here. *See generally* *Order and Opinion Denying Request Under Open Records Act*, 1997 WL 583726 (Tex. Aug. 21, 1997) (only judges and courts have the power to control access to records of the judiciary). As the requested information is information collected, assembled, or maintained *by or for the judiciary*, the public availability of the information is not governed by the Act and is instead

²Records of the judiciary may be public pursuant to other sources of law. Attorney General Opinions DM-166 at 2-3 1992) (public 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).

governed by “rules adopted by the Supreme Court of Texas or by other applicable law and rules” pertaining to information “collected, assembled, or maintained by or for the judiciary.” See Gov’t Code § 552.0035(a). We therefore conclude the sheriff department need not release the submitted information.³

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.

³As our ruling is dispositive, we do not reach your other arguments.

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 Forrest", with a long horizontal stroke extending to the right.

James Forrest
Assistant Attorney General
Open Records Division

JF/jpa

Ref: ID# 235876

Enc. Submitted documents

c: Michael Rover
111 Villa Ann Drive
Castle Hills, Texas 78213
(w/o enclosures)