



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 27, 2006

Ms. M. Ann Montgomery
Assistant County and District Attorney
Ellis County
1201 North Highway 77, Suite 104
Waxahachie, Texas 75165-7832

OR2006-04277

Dear Ms. Montgomery:

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# 247341.

The Ellis County Justice of the Peace (the "justice of the peace") received a request for information relating to an autopsy. You claim that the requested information is excepted from disclosure under sections 552.103 and 552.108 of the Government Code. We have considered the exceptions you claim and have reviewed the information you submitted.

Generally, information that a governmental body maintains and that has been filed with a court is subject to public disclosure under the Act. *See* Gov't Code § 552.022(a)(17); *Star-Telegram, Inc. v. Walker*, 834 S.W.2d 54 (Tex. 1992). In this instance, however, the request for information was submitted to the justice of the peace, who is a member of the judiciary. Section 552.003(b) of the Government Code excludes the judiciary from the Act. Therefore, the Act neither authorizes information held by the judiciary to be withheld nor requires that it be disclosed. *See* Open Records Decision No. 25 (1974). Accordingly, the requested information is not subject to public disclosure under the Act, and the Open Records Division does not have the authority to rule on records maintained by the judiciary.¹ *See* Gov't Code § 552.0035 (access to information maintained by or for judiciary is governed by rules adopted by supreme court); *see also* Tex. R. Jud. Admin. 12 (public access to judicial records). However, Texas courts have long recognized a common law right to copy and

¹Thus, we do not address your claims under sections 552.103 and 552.108 of the Government Code.

inspect certain judicial records. See 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 Nos. 618 (1993), 25 (1974); *Star-Telegram, Inc. v. Walker*, 834 S.W.2d at 57 (documents filed with courts are generally considered public and must be released). Additionally, the information may be subject to disclosure under statutory law. See Gov't Code § 27.004 (all papers filed in case in justice court are subject to inspection of any interested party at reasonable times); Loc. 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).

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).

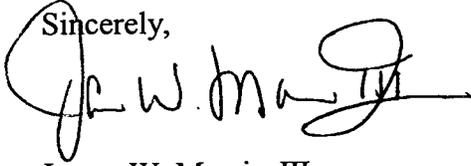
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records 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.

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 "J.W. Morris III". The signature is fluid and cursive, with a large initial "J" and "M".

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

JWM/sdk

Ref: ID# 247341

Enc: Submitted documents

c: Ms. JoAnn Livingston
Waxahachie Daily Light
P.O. Box 877
Waxahachie, Texas 75168
(w/o enclosures)