



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 12, 2008

Mr. W. W. McNeal
Attorney at Law
P.O. Box 1259
Lockhart, Texas 78644

OR2008-15561

Dear Mr. McNeal:

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# 330115.

The Martindale Police Department and the City of Martindale (collectively the "city"), which you represent, each received a request for traffic tickets issued after a specified date, financial statements, and information regarding a traffic engineering study. You claim the traffic citations are a record of the judiciary and therefore are not subject to the Act pursuant to section 552.003 of the Government Code. Alternatively, you contend the traffic tickets are excepted from public disclosure under sections 552.101 and 552.103 of the Government Code. We have considered the arguments you make. We have also considered comments from the requestor. *See* Gov't Code § 552.304 (interested party may submit written comments concerning disclosure of requested information).

Initially, we note that the city has not submitted arguments or information responsive to the requests for financial statements or for the traffic engineering study. To the extent any information responsive to these portions of the request existed on the date the city received the request, we assume the city has released it. If the city has not released any such records, it must do so at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

“Public information” means information that is collected, assembled, or maintained by a governmental body. Gov’t Code § 552.002. Section 552.003(b) of the Government Code excludes the judiciary from the definition of “governmental body” under 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). You explain the traffic tickets are maintained by the city’s municipal court. Based on this representation, we conclude the traffic tickets are not subject to public disclosure under chapter 552 of the Government Code, and the Open Records Division does not have the authority to rule on records maintained by the judiciary. Gov’t Code § 552.0035 (access to information maintained by or for judiciary is governed by rules adopted by supreme court); *see* Tex. R. Jud. Admin. 12 (public access to judicial records). As a record of the judiciary, however, the information may be public by other sources of law. *See* Gov’t Code § 29.007(d)(4) (complaints filed with municipal court clerk); *id.* § 29.007(f) (municipal court clerks shall perform duties prescribed by law for county court clerk); 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); *see also* Attorney General Opinions DM-166 (1992) at 2-3 (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). As our ruling is dispositive, we do not address your remaining arguments against disclosure.

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 file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3). If the governmental body does not file suit over 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 challenge 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,



Christopher D. Sterner
Assistant Attorney General
Open Records Division

CDSA/eeg

Ref: ID# 330115

Enc. Submitted documents

c: Mr. James B. Gray
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(w/o enclosures)