



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 8, 2011

Mr. Michael M. Kelly
Assistant Criminal District Attorney
Victoria County
205 North Bridge Street, Suite 301
Victoria, Texas 77901

OR2011-11342

Dear Mr. Kelly:

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# 426214.

The Victoria County District Clerk (the "clerk") received a request for the amount of funds on deposit, the cause or case number, and the date the funds were received for all civil cases. We understand you to argue that the submitted information is not subject to the Act.¹ We have considered the exception you claim and reviewed the submitted representative sample of information.² We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

The Act applies to information that is "collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business by a governmental body."

¹We note that although you raise sections 552.101 through 552.147 of the Government Code, you make no arguments to support these exceptions. Therefore, we assume you have withdrawn your claim that these sections apply to the submitted information. Further, although you also raise section 552.305 of the Government Code, this provision is not an exception to disclosure. Rather, section 552.305 requires a governmental body to notify third parties whose proprietary interests may be implicated by a request for information of the request and of the parties' right to submit comments to this office explaining why the requested information should be withheld from disclosure. *See* Gov't Code § 552.305(d).

²We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

Id. § 552.002(a)(1). However, a “governmental body” under the Act “does not include the judiciary.” *Id.* § 552.003(1)(B). Information that is “collected, assembled or maintained by . . . the judiciary” is not subject to the Act but is instead “governed by rules adopted by the Supreme Court of Texas or by other applicable laws and rules.” *Id.* § 552.0035(a); *cf.* Open Records Decision No. 131 (1976) (applying statutory predecessor to judiciary exclusion under section 552.003(1)(B) prior to enactment of section 552.0035). You state and the submitted information reflects “the [monies] remain in the Court’s registry.” You indicate the submitted information is held by the clerk on behalf of the judiciary. *See* Open Records Decision No. 646 (1996) (function governmental entity performs determines whether it falls within judiciary exception to the Act); *see also* Open Records Decision No. 236 (1980). Therefore, we find the submitted information consists of records of the judiciary, and thus is not subject to the Act. Accordingly, the clerk need not release the requested information under the Act in response to the present request.³

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Tamara Wilcox
Assistant Attorney General
Open Records Division

TW/dls

³We note records of the judiciary may be public under other sources of law. *See* Tex. R. Jud. Admin. 12 (public access to judicial records); 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); Local 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); 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).

Ref: ID# 426214

Enc. Submitted documents

c: Requestor
(w/o enclosures)