



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 20, 2017

Ms. Ashley D. Fourt
Assistant Criminal District Attorney
Civil Division
Dallas County
411 Elm Street, 5th Floor
Dallas, Texas 75202-3317

OR2017-13553

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# 669518.

The Dallas County Medical Examiner's Office (the "medical examiner's office") received a request for the autopsy report of a named individual. You argue the submitted information does not consist of public information subject to the Act. In the alternative, you claim the submitted information is excepted from disclosure under section 552.108 of the Government Code.¹ We have considered the submitted arguments and reviewed the submitted information.

You state the medical examiner's office performs autopsies for smaller surrounding counties. You state, and provide documentation showing, the autopsy at issue was performed by the medical examiner's office pursuant to an order by the Bell County Justice of the Peace,

¹Although you also raise section 552.101 of the Government Code in conjunction with section 552.108 of the Government Code, this office has concluded section 552.101 does not encompass other exceptions found in the Act. *See* Open Records Decision Nos. 676 at 1-2 (2002), 575 at 2 (1990). Accordingly, we do not address your argument under section 552.101.

Precinct 4, Place 2 (the “justice of the peace”) as part of a judicial inquest into the death of the named individual. *See* Crim. Proc. Code arts. §§ 49.04 (requiring justice of the peace to conduct inquest in certain circumstances), .10 (listing circumstances in which autopsy shall be performed), .15(a) (requiring inquest record to be maintained in office of justice of the peace), .15(b)(8) (requiring that inquest record include autopsy report); *see also id.* arts. §§ 49.01-.24 (providing for duties of justice of the peace with regard to inquests and autopsies); Attorney General Opinion GA-0389 (2005). You explain the submitted information is not a record of the medical examiner’s office but is held as a judicial inquest record for the justice of the peace. Thus, the instant request is for information maintained on behalf of the justice of the peace.

We note the Act does not govern access to judicial records. *See* Gov’t Code § 552.003(1)(B) (providing that the term “[g]overnmental body” . . . does not include the judiciary”). “Access to information collected, assembled, or maintained by . . . the judiciary is governed by rules adopted by the Texas Supreme Court or by other applicable laws and rules.” *Id.* § 552.0035(a). Information collected, assembled, or maintained for the judiciary by an agent of the judiciary is not subject to the Act. *Id.*; *see* Open Records Decision No. 513 at 2 (1988) (“When an individual or entity acts at the direction of a grand jury as the grand jury’s agent, information held or collected by the agent is within the grand jury’s constructive possession.”). Because a justice of the peace is a member of the judiciary, the records that a justice of the peace maintains are not subject to the Act. *See* Tex. Const. art. V, § 1; Open Records Decision No. 25 (1974). Therefore, the Act “neither authorizes information held by the judiciary to be withheld nor requires it to be disclosed.” ORD 25 at 3 (construing statutory predecessor). In performing the autopsy at issue, the medical examiner’s office was acting as the agent of the justice of the peace who ordered the autopsy, and thus, the requested autopsy records are collected and maintained by the medical examiner’s office on behalf of the justice of the peace. Accordingly, we find the submitted information is in the constructive possession of the justice of the peace, is consequently not subject to the Act, and need not be released in response to the instant request for information.²

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for

²As we are able to make this determination, we do not address your claimed exception to disclosure.

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "Kenny Moreland". The signature is fluid and cursive, with a large initial "K" and "M".

Kenny Moreland
Assistant Attorney General
Open Records Division

KJM/nmd

Ref: ID# 669518

Enc. Submitted documents

c: Requestor
(w/o enclosures)