



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 22, 2017

Ms. Kathryn Kraft  
Assistant District Attorney  
Dallas County  
411 Elm Street, 5<sup>th</sup> Floor  
Dallas, Texas 75202-3317

OR2017-13947

Dear Ms. Kraft:

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# 663362.

The Dallas County Auditor's Office (the "auditor's office") received a request for six categories of information pertaining to court appointments in specified years. The auditor's office states it has released some information. The auditor's office claims the requested information consists of judicial records not subject to release under the Act. We have considered the auditor's office's arguments and reviewed the submitted representative sample of information.<sup>1</sup>

Section 552.002(a) of the Government Code defines "public information" as information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

(1) by a governmental body;

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<sup>1</sup>We 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.

(2) for a governmental body and the governmental body:

(A) owns the information;

(B) has a right of access to the information; or

(C) spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information; or

(3) by an individual officer or employee of a governmental body in the officer's or employee's official capacity and the information pertains to official business of the governmental body.

Gov't Code § 552.002(a). However, the Act's definition of "governmental body" does not include the judiciary. *Id.* § 552.003(1)(B). Information "collected, assembled, or maintained by or for the judiciary" is not subject to the Act but, instead, is "governed by rules adopted by the Supreme Court of Texas or by other applicable laws and rules." *Id.* § 552.0035; TEX. R. JUD. ADMIN. 12 (public access to judicial records). Consequently, records of the judiciary need not be released under the Act. *See* Attorney General Opinion DM-166 (1992). In *Benavides v. Lee*, 665 S.W.2d 151 (Tex. App.—San Antonio 1983, no writ), the court explained the purpose of the judiciary exception as follows:

The judiciary exception ... is important to safeguard judicial proceedings and maintain the independence of the judicial branch of government, preserving statutory and case law already governing access to judicial records. But it must not be extended to every governmental entity having any connection with the judiciary.

665 S.W.2d at 152. The court in *Benavides* found the Webb County Juvenile Board not to be a part of the judiciary. In so finding, the court reasoned that an analysis of the judiciary exception should focus on the governmental body itself and the kind of information requested. *See id.* at 151; *see also* Open Records Decision No. 572 (1990). This office has found that to fall under the judiciary exclusion, requested records must contain information that pertains to judicial proceedings and be subject to direct supervision of a court. Open Records Decision No. 671 (2001) (citing Open Records Decision No. 646 at 5 (1996)). In Open Records Decision No. 671, this office found that the Ellis County Office of Court Administration was an agent of the judiciary, and information created for this office relating to judicial proceedings consisted of information collected, assembled, or maintained for the judiciary, and thus was not public information under the Act. *See id.* at 3.

The auditor's office states the submitted records pertain to judicial proceedings as they comprise attorneys' requests for payment when judicially appointed to represent indigent defendants. The auditor's office explains attorneys provide these requests for payment to the

auditor's office after obtaining judicial approval regarding the payment amounts. The auditor's office further explains it then uses the information at issue to pay the attorneys for services rendered. Accordingly, the auditor's office asserts the submitted information was collected and is maintained by the judiciary. Based on these representations and our review, we conclude the submitted information consists of judicial records, and we understand these records are held by the auditor's office acting as an agent of the judiciary. Thus, the submitted information is not subject to the Act and the auditor's office is not required to release it in response to the request for information.

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

Sincerely,



Rahat Huq  
Assistant Attorney General  
Open Records Division

RSH/tdw

Ref: ID# 663362

Enc. Submitted documents

c: Requestor  
(w/o enclosures)