



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 30, 2017

Ms. Kathryn Kraft
Assistant District Attorney
Dallas County
411 Elm Street, Fifth Floor
Dallas, Texas 75202-3317

OR2017-14683

Dear Ms. Kathryn 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# 664490.

The Dallas County Auditor's Office (the "auditor's office") received two requests for attorney pay sheets pertaining to a named attorney. You claim the submitted information consists of judicial records not subject to release under the Act. We have considered your argument and reviewed the submitted representative sample of information.¹

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

¹We assume that 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 that those records contain substantially different types of information than that submitted to this office.

- (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.

You explain the submitted information was provided to the auditor's office by an attorney who was appointed to represent indigent defendants and used by the auditor's office to pay the attorney for services rendered at the direction of the judiciary. You further state the submitted information was provided to the auditor's office by the attorney "after obtaining

judicial approval regarding the payment amounts.” Accordingly, we understand you to assert the submitted information was collected and is maintained by the judiciary. Based on your representations and our review, we conclude the requested 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 requests 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, 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,



Matthew Taylor
Assistant Attorney General
Open Records Division

MHT/bw

Ref: ID# 664490

Enc. Submitted documents

c: Requestor
(w/o enclosures)