



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 17, 2017

Ms. Josephine Ramirez-Solis and Ms. Erin D. Thorn
Assistant District Attorney
Hidalgo County Criminal District Attorney
100 East Cano Street
Edinburg, Texas 78539

OR2017-23784

Dear Ms. Ramirez-Solis and Ms. Thorn:

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# 680458 (File Nos. 2017-0080-DA.CO, 2017-0086-DA.CO).

The Hidalgo County Public Affairs Office (the "county") received two requests for information pertaining to a named judge and employees of certain district and county courts. The county claims some of the submitted information is not subject to the Act. Additionally and in the alternative, the county claims some of the submitted information is excepted from disclosure under section 552.117 of the Government Code.¹ We have received comments from the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have considered the submitted arguments and reviewed the submitted representative sample of information.²

The Act is applicable to information "written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business: (1) by

¹Although the county raises section 552.1175 of the Government Code, we note section 552.117 is the proper exception to raise for information the county holds in its capacity as an employer.

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.

a governmental body[.]” *See id.* § 552.002(a)(1). 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(a); *cf.* Open Records Decision No. 131 (1976) (applying statutory predecessor to judiciary exclusion under Gov’t Code § 552.003(1)(B) prior to enactment of Gov’t Code § 552.0035). Rule 12 of the Rules of Judicial Administration governs the public disclosure of judicial records, which are not subject to the Act. TEX. R. JUD. ADMIN. 12.1, 12.3; Gov’t Code §§ 552.003(a)(B), .0035(a). Rule 12.2 of the Rules of Judicial Administration defines a “judicial record” as “a record made or maintained by or for a court or judicial agency in its regular course of business but not pertaining to its adjudicative function[.]” TEX. R. JUD. ADMIN. 12.2(d). We note the submitted information consists of personnel records pertaining to employees of the 206th district court, as well as records related to travel by the named judge. The county states the information at issue consists of records maintained on behalf of the judiciary. Based on these representations and our review, we conclude the submitted information constitutes judicial records maintained by the county on behalf of the judiciary. Therefore, the submitted information is not subject to the Act, and the county is not required to release it in response to the request for information.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.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

³As our ruling is dispositive, we do not address the other argument of the county to withhold this information.

Ref: ID# 680458

Enc. Submitted documents

c: Requestor
(w/o enclosures)