



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

December 13, 2017

Mr. Ira Davis  
Executive Director  
Capital Area Private Defender Service  
507 West 11<sup>th</sup> Street  
Austin, Texas 78701

OR2017-28318

Dear Mr. Davis:

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# 687791.

The Capital Area Private Defender Service ("CAPDS") received a request for twenty points of information pertaining to CAPDS attorneys, as well as information related to appointments, vouchers, and payments made to the attorneys. You state you have released some information. You claim the submitted information is not subject to the Act. We have considered your arguments and reviewed the submitted representative sample of information.<sup>1</sup>

Initially, we note some of the submitted information is not responsive to the present request for information because it does not pertain to any of the information requested by the requestor. This ruling does not address the public availability of the non-responsive information, which we have marked, and CAPDS need not release such information in response to this request.

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<sup>1</sup>We 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.

CAPDS claims it does not maintain, own, or have a right of access to the requested vouchers or appointment information and, thus, the vouchers and appointments are not “public information” subject to the Act. Section 552.002(a) defines “public information” as, in part, “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:
  - (A) owns the information; [or]
  - (B) has a right of access to the information[.]”

Gov’t Code § 552.002(a)(1), (2)(A)-(B). Thus, virtually all information that is in a governmental body’s physical possession constitutes public information that is subject to the Act. *Id.* § 552.002(a)(1); *see also* Open Records Decision Nos. 549 at 4 (1990), 514 at 1-2 (1988). The Act also encompasses information that a governmental body does not physically possess, if the information is collected, assembled, or maintained for the governmental body, and the governmental body owns the information or has a right of access to it. Gov’t Code § 552.002(a)(2); *see* Open Records Decision No. 462 at 4 (1987). Moreover, section 552.001 of the Act provides it is the policy of this state that each person is entitled, unless otherwise expressly provided by law, at all times to complete information about the affairs of government and the official acts of public officials and employees. *See* Gov’t Code § 552.001(a). CAPDS claims it does not maintain, own, or have access to the requested information at issue. CAPDS explains it contracts with Travis County (the “county”) to perform certain services, including selecting attorneys qualified to represent indigent defendants, approving investigator and expert services, and determining compensation for such services. CAPDS further explains, pursuant to the contract between it and the county, CAPDS has limited access to the electronic system the county uses to process payment requests electronically submitted by attorneys. CAPDS states, once a payment request has been submitted through the system, CAPDS staff makes a payment determination, which the system electronically then forwards to the county auditor for payment, at which point the payment is formed into a voucher. After payment is made by the county commissioner’s court, the voucher is filed with the district or county clerk for filing, and the electronic version is held by the county auditor. CAPDS explains the system was developed and funded by the county, is hosted on servers owned by the county, and is maintained exclusively by the county. Additionally, CAPDS states it does not have access to and is not able to view the actual vouchers or the appointments. Based on these representations and our review, we find the requested information is not maintained in connection with the transaction of official business of CAPDS. *See* Gov’t Code § 552.021. Therefore, we

conclude the information at issue is not subject to the Act and need not be released in response to this request.

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,



Erin Groff  
Assistant Attorney General  
Open Records Division

EMG/sb

Ref: ID# 687791

Enc. Submitted documents

c: Requestor  
(w/o enclosures)