



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

July 7, 2022

Mr. David T. Ritter  
Counsel for the City of McKinney  
Brown & Hofmeister, L.L.P.  
740 East Campbell Road, Suite 800  
Richardson, Texas 75081

OR2022-19351

Dear Mr. Ritter:

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# 957961 (City ID Nos. G22824, P22825, and P22876).

The City of McKinney (the "city"), which you represent, received three requests from the same requestor for certain information pertaining to a named officer and a specified location.<sup>1</sup> You state you do not have information responsive to one of the requests.<sup>2</sup> You claim the submitted information is not subject to the Act. You also claim the submitted information is excepted from disclosure under section 552.103 of the Government Code. We have considered the submitted arguments and reviewed the submitted information.

You assert the submitted information is not subject to the Act because it relates to the judiciary. The Act applies to, in part, information that is "written, produced, collected, assembled, or maintained . . . in connection with the transaction of official business . . . by a governmental body[.]" Gov't Code § 552.002(a)(1). However, a "governmental body"

---

<sup>1</sup> You state the city sought and received clarification of the third request for information. *See* Gov't Code § 552.222 (if request for information is unclear, governmental body may ask requestor to clarify request); *see also City of Dallas v. Abbott*, 304 S.W.2d 380, 387 (Tex. 2010) (if governmental entity, acting in good faith, requests clarification of unclear or over-broad request, ten-day period to request attorney general ruling is measured from date request is clarified).

<sup>2</sup> The Act does not require a governmental body to release information that did not exist when a request for information was received, create responsive information, or obtain information that is not held by or on behalf of the city. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision No. 452 at 3 (1986).

under the Act “does not include the judiciary.” *Id.* § 552.003(1)(B). Information that is “collected, assembled, or maintained by or for the judiciary” is not subject to the Act but is instead “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 section 552.003(1)(B) prior to enactment of section 552.0035). In determining whether a governmental entity falls within the judiciary exception of the Act, this office looks to whether the governmental entity maintains the relevant records as an agent of the judiciary in regard to judicial, as opposed to administrative functions. *See* Open Records Decision No. 646 at 2-3 (1996) (citing *Benavides v. Lee*, 665 S.W.2d 151 (Tex. App.—San Antonio 1983, no writ)). You state the instant requests are for judicial records collected, assembled, or maintained by the McKinney Municipal Court on behalf of the judiciary. Accordingly, we conclude the requested information, which consists of records of the judiciary, is not subject to the Act and need not be released in response to these requests for information.<sup>3</sup>

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Kimbell Kesling  
Assistant Attorney General  
Open Records Division

KK/jm

Ref: ID# 957961

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

---

<sup>3</sup> As our ruling is dispositive, we need not address the remaining argument against disclosure of the submitted information.