



February 5, 2001

Open Records Decision No. 671

Re: The Ellis County District Clerk currently produces a weekly index report that is available to the public and contains certain categories of information about the cases in District Court. The District Clerk has received a request for additional categories of information to be included in the weekly index report. Complying with the request would require the District Clerk to make data manipulation changes to a computer database, which contains the additional categories of information. The issues presented are thus (1) whether the request at issue constitutes a request for public information under the Public Information Act (i.e., whether the information at issue is "public information" as defined in section 552.002 of the Government Code or is information of the judiciary that is thereby excluded from the requirements of the Public Information Act by section 552.0035 of the Government Code) and (2) whether the Public Information Act requires the District Clerk to make data manipulation changes to produce the requested information. (ORQ-57)

Dear Ladies and Gentlemen:

Section 552.011 of the Government Code grants the Attorney General the authority to issue opinions for the purpose of maintaining uniformity in the application, operation, and interpretation of the Public Information Act (the "Act"), chapter 552 of the Government Code. Under that authority, we consider whether the Act requires the Ellis County District Clerk (the "District Clerk") to comply with a request for additional information to be included in a weekly index report that contains statistical information on civil and criminal cases in District Court. We consider whether these weekly reports are subject to required disclosure under the Act, and whether the Act requires the District Clerk to make data

manipulation changes to comply with a request that additional information be included in the reports.

Section 552.021 of the Act provides: "Public information is available to the public at a minimum during the normal business hours of the governmental body." Public information is "information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business: (1) by a governmental body; or (2) for a governmental body and the governmental body owns the information or has a right of access to it." Gov't Code § 552.002. However, the Act does not apply to information collected, assembled, or maintained by or for the judiciary. Rather, "[a]ccess to information collected, assembled, or maintained by or for the judiciary is governed by rules adopted by the Supreme Court of Texas or by other applicable laws and rules." Gov't Code § 552.0035(a). Because the District Clerk is not a part of the judiciary,¹ the question is whether the information at issue is collected, assembled, or maintained *for* the judiciary. If so, that information is not public information subject to the Act.

In Open Records Decision No. 646 (1996), this office concluded that a supervision and corrections department, established by criminal district judges under chapter 76 of the Government Code, was a governmental body subject to the Act, and not a part of the judiciary. ORD 646 at 3-4. The Attorney General concluded that administrative records, such as personnel files and other records reflecting the day-to-day management of the department, were subject to the Act. *Id.* at 5. On the other hand, this office concluded that specific records pertaining to judicial proceedings, such as information about individuals on probation and subject to the direct supervision of a court, were not subject to the Act because such records were held on behalf of the judiciary. *Id.*

Regarding the weekly index reports prepared by the District Clerk's office, the Ellis County District Attorney informs us that the statistical information contained in the reports is derived from a case disposition database. He also informs us that the weekly reports are produced for the public's use and are not distributed to the judges or used by the judiciary. To fall under the judiciary exclusion, the records requested must contain information that pertains to judicial proceedings and be subject to direct supervision of a court. ORD 646 at 5 (1996). Under section 51.303 of the Government Code, district court clerks are required to "(1) record the acts and proceedings of the court; (2) enter all judgments of the court under the direction of the judge; and (3) record all executions issued and the returns on the executions." All of this information, which is presumably collected, assembled and maintained in the District Clerk's case disposition database, pertains to judicial proceedings. Furthermore, we are told that the case disposition database is used to create a monthly report

¹*Cf. Holmes v. Morales*, 924 S.W.2d 920, 922 (Tex. 1996) (Harris County District Attorney's office not included in the meaning of "judiciary" in section 552.003(1)(B) of the Act, because the Texas Constitution invests no judicial power in that office); Open Records Decision No. 646 (1996).

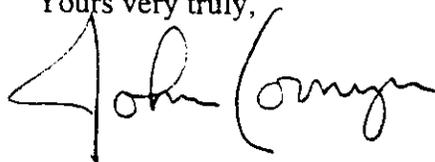
for the Office of Court Administration, which is an agent of the judiciary. Therefore, all of the information contained in the case disposition database maintained by the District Clerk is information collected, assembled, or maintained for the judiciary and is not public information under the Act. *See* Gov't Code § 552.0035(a). In addition, all reports created from the database, including the weekly index reports, are not subject to the disclosure requirements of the Act, regardless of whether the reports are made for the public's use.² Because the information requested to be added to the weekly reports is not public information under the Act, the Act imposes no statutory duty on the District Clerk to add information to the reports.

²Although this decision does not address whether any of the information at issue is governed by the rules of the Texas Supreme Court, we note that the rules of the Texas Supreme Court allow for public disclosure of judicial records. The Texas Supreme Court's Rules of Judicial Administration provide that "[j]udicial records . . . are open to the general public for inspection and copying during regular business hours." Tex. Sup. Ct. R. 12.4(a). "*Judicial record* means a record made or maintained by or for a court or judicial agency in its regular course of business[.]" Tex. Sup. Ct. R. 12.2(d). "*Judicial agency* means an office . . . that is in the Judicial Department and that serves an administrative function for a court," which includes the District Clerk's office. Tex. Sup. Ct. R. 12.2(b).

SUMMARY

The information contained in the weekly index reports produced by the Ellis County District Clerk's office is derived from a case disposition database that is "collected, assembled, or maintained . . . for the judiciary." Gov't Code § 552.0035(a). Therefore, the information contained in weekly index reports is not public information under the Act. The Act imposes no statutory duty on the District Clerk to add categories of information to the weekly index reports.

Yours very truly,

A handwritten signature in black ink, appearing to read "John Cornyn". The signature is fluid and cursive, with the first name "John" being larger and more prominent than the last name "Cornyn".

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