



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 2, 2014

Ms. Elizabeth Hanshaw Winn  
Assistant County Attorney  
Travis County  
P.O. Box 1748  
Austin, Texas 78767

OR2014-15403

Dear Ms. Winn:

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# 534853.

The Travis County Criminal Court Administration (the "criminal court administration") received a request for billing information pertaining to a named attorney pro tem who was appointed for a specified case, including copies of submitted bills. The criminal court administration claims the requested information either consists of judicial records not subject to release under the Act or is excepted from disclosure under sections 552.107, 552.108, and 552.1175 of the Government Code. We have considered your arguments and reviewed the submitted information.

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:
  - (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.

*Id.* 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 ORD 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* ORD 671 at 3.

You inform us a senior judge for the Travis County Criminal District Courts appointed an attorney pro tem for the case at issue.<sup>1</sup> *See* Crim. Proc. Code art. 2.07. You state the

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<sup>1</sup>Although you refer to the individual appointed by the senior judge as a special prosecutor, we understand the individual at issue is an attorney pro tem as described in article 2.07 of the Texas Code of Criminal Procedure. *See* Crim. Proc. Code art. 2.07; *see also* *Coleman v. State*, 246 S.W.3d 76, 81-82 (Tex. Crim. App. 2008) (comparing attorney pro tem to special prosecutor).

submitted information consists of fee bills that the attorney pro tem submitted to the senior judge for payment of legal services. Accordingly, you 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 criminal court administration acting as an agent of the judiciary. ORD 671 at 3. Thus, the submitted information is not subject to the Act and the criminal court administration is not required to release it in response to the request for information.<sup>2</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 [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,



James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/eb

Ref: ID# 534853

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>2</sup>As our ruling is dispositive, we do not address your other arguments to withhold this information.