



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 24, 2015

Mr. J. Greg Hudson
Counsel for the Capital Area Private Defender Service
Hudson & O'Leary, L.L.P.
1010 MoPac Circle, Suite 201
Austin, Texas 78746

OR2015-07941

Dear Mr. Hudson:

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# 561161.

Capital Area Private Defender Service ("CAPDS"), which you represent, received a request for three categories of information related to communication between CAPDS' review committee (the "committee") members and documentation regarding the evaluation, rejection, or approval of applications of attorneys seeking to qualify for appointments to represent indigent defendants. You claim the committee is not a governmental body that is subject to the Act. We have considered the submitted arguments and reviewed the submitted representative sample of information.¹

Initially, you assert the committee is not a governmental body because the committee is not supported by public funds. You state the committee "evaluates local attorneys for criminal assignments for indigent adult criminal defendants" and consists of attorneys who volunteer

¹We 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.

their services to CAPDS. We note the Act applies to “governmental bodies” as that term is defined in section 552.003(1)(A) of the Government Code. Under the Act, the term “governmental body” includes several enumerated kinds of entities and “the part, section, or portion of an organization, corporation, commission, committee, institution, or agency that spends or that is supported in whole or in part by public funds[.]” Gov’t Code § 552.003(1)(A)(xii). The term “public funds” means funds of the state or of a governmental subdivision of the state. *Id.* § 552.003(5). You acknowledge the committee was created by CAPDS pursuant to article 26.047(e) of the Code of Criminal Procedure, which authorizes the creation of review committees to evaluate attorney qualifications for the representation of indigent criminal defendants as part of a managed assigned counsel program. *See* Crim. Proc. Code art. 26.047(e); *see also id.* art. 26.047(a)(2) (defining “[m]anaged assigned counsel program” as program operated with public funds by nonprofit corporation for purpose of appointing counsel).

Upon review, we find the committee is part of CAPDS. You acknowledge CAPDS is a governmental body supported by public funds. *See id.* art. 26.047(a)(2). We note portions of the submitted information may be subject to section 552.137.² Therefore, we will address the applicability of section 552.137 to the submitted information.

Section 552.137 of the Government Code excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body” unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). Gov’t Code § 552.137(a)-(c). The e-mail addresses at issue are not excluded by subsection (c). Therefore, CAPDS must withhold the personal e-mail addresses we have marked under section 552.137 of the Government Code, unless the owners affirmatively consent to their public disclosure. As no further exceptions to disclosure have been raised, CAPDS must release the remaining information.

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

²The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "Rustam Abedinzadeh". The signature is fluid and cursive, with the first name "Rustam" being more prominent.

Rustam Abedinzadeh
Assistant Attorney General
Open Records Division

RA/dls

Ref: ID# 561161

Enc. Submitted documents

c: Requestor
(w/o enclosures)