



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 20, 2006

Ms. Cristina O'Neil  
Assistant District Attorney  
County of Dallas  
Frank Crowley Courts Building  
133 North Industrial Boulevard, LB-19  
Dallas, Texas 75207-4399

OR2006-13745

Dear Ms. O'Neil:

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# 264149.

The Dallas County District Attorney's Office (the "district attorney") received a request for a list of any indictments the district attorney's office has obtained for the offense of breach of computer security. You contend that the requested information is not subject to disclosure under the Act. We have considered your arguments and reviewed the submitted representative sample of information.<sup>1</sup>

You assert that "the information requested is maintained by the Dallas District Clerk [the "clerk"] in its role as agent of the judiciary[.]" We note that the Act only applies to information that is "collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business by a governmental body." Gov't Code

---

<sup>1</sup>This letter ruling assumes that the submitted representative sample of information is truly representative of the requested information as a whole. This ruling neither reaches nor authorizes the district attorney to withhold any information that is substantially different from the submitted information. See Gov't Code §§ 552.301(e)(1)(D), .302; Open Records Decision Nos. 499 at 6 (1988), 497 at 4 (1988).

§ 552.002(a)(1). We also note that the Act does not apply to records of the judiciary. *See id.* § 552.003(1)(B). Information that is “collected, assembled or maintained by or for the judiciary” is not subject to the Act. *Id.* § 552.0035(a); *see also* Tex. Sup. Ct. R. 12. Consequently, records of the judiciary need not be released under the Act. *See* Attorney General Opinion DM-166 (1992). *But see Benavides v. Lee*, 665 S.W.2d 151 September 19, 2005 (Tex. App.—San Antonio 1983, no writ); Open Records Decision No. 646 (1996) at 4 (“function that a governmental entity performs determines whether the entity falls within the judiciary exception 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. Open Records Decision No. 646 at 3-4 (1996). 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.*

You inform this office that the “data [the requestor] seeks is stored on Dallas County’s [the “county’s”] mainframe computer system.” You state that the public is able to access the information at issue through “public terminals in the district and county clerks’ offices, dial up access, and online record searches. . . .through [the county’s] website.”<sup>2</sup> You also explain that this mainframe computer system is maintained by the district clerk in its role as an agent of the judiciary. Therefore, the submitted indictment list, which you claim was extracted from this computer database system, is compiled and maintained by the clerk on behalf of the judiciary. Thus, you have demonstrated that the submitted information is information collected, assembled, or maintained by or for the judiciary. Consequently, the public availability of the submitted list of indictments is not governed by the Act and is instead governed by “rules adopted by the Supreme Court of Texas or by other applicable law and rules” pertaining to information “collected, assembled, or maintained by or for the judiciary.” *See* Gov’t Code § 552.0035(a), Open Records Open Records Decision No. 671 (1992).

However, although the district attorney indicates he has no list of indictments responsive to the request and such a list must be obtained from an agent of the judiciary, he has a duty to make a good faith effort to relate the request to information that he holds. Open Records Decision No. 590 at 1 n. 1 (1991). Therefore, if the district attorney has the actual

---

<sup>2</sup>Texas courts have long recognized a common law right to copy and inspect certain judicial records. Attorney General Opinion DM-166 at 2-3 (1992) (public has general right to inspect and copy judicial records), H-826 (1976); Open Records Decision Nos. 618 (1993), 25 (1974).

indictments that are on the list, then they relate and are responsive to the request and must be released.

Finally, the district attorney requests that this office grant a previous determination allowing it to withhold "information maintained by the Dallas County Clerk and District Clerk on behalf of the judiciary." We decline to do so at this time. Accordingly, this letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

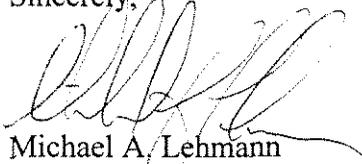
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Michael A. Lehmann  
Assistant Attorney General  
Open Records Division

MAL/dh

Ref: ID# 264149

Enc. Submitted documents

c: Mr. Matt Pulle  
Dallas Observer  
2501 Oak Lawn Avenue, Suite 700  
Dallas, Texas 75219  
(w/o enclosures)