



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 24, 2009

Mr. Joel K.B. Winful  
Assistant District Attorney  
Dallas County  
411 Elm Street, 5<sup>th</sup> Floor  
Dallas, Texas 75202

OR2009-05440

Dear Mr. Winful:

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# 340828.

The Dallas County District Clerk (the "clerk") received a request for computerized court case data regarding certain Dallas County court cases. You indicate that some of the requested information does not currently exist in the clerk's records.<sup>1</sup> You claim that the remaining requested information is not subject to the Act. We have considered your submitted arguments. We have also received and considered comments submitted by the requestor. *See Gov't Code* § 552.304 (interested party may submit comments stating why information should or should not be released).

Initially, you assert that the present request for information is, in part, a standing request. It is implicit in several provisions of the Act that the Act applies only to information already in existence. *See id.* §§ 552.002, .021, .227, .351. The Act does not require a governmental body to prepare new information in response to a request. *See Attorney General Opinion H-90 (1973); see also Open Records Decision Nos. 572 at 1 (1990), 555 at 1-2 (1990), 452*

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<sup>1</sup>We note that the Act does not require a governmental body to release information that did not exist when it received a request or create responsive information. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); *Open Records Decision Nos. 605 at 2 (1992), 555 at 1 (1990), 452 at 3 (1986), 362 at 2 (1983).*

at 2-3 (1986), 87 (1975). Consequently, a governmental body is not required to comply with a standing request to supply information on a periodic basis as such information is prepared in the future. *See* Attorney General Opinion JM-48 at 2 (1983); *see also* Open Records Decision Nos. 476 at 1 (1987), 465 at 1 (1987). Thus, the only information encompassed by this request consists of documents that the clerk maintained or had a right of access to as of the date that it received the request.

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 § 552.002(a)(1). The Act does not apply to records of the judiciary. *See id.* § 552.003(1)(B) (definition of “governmental body” under Act specifically excludes the judiciary). 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 (Tex. App.—San Antonio 1983, no writ); Open Records Decision No. 646 at 4 (1996) (“function that a governmental entity performs determines whether the entity falls within the judiciary exception to the . . . Act.”). In this instance, you explain that the clerk is the custodian of the court case files for the District Courts and that the requested information is maintained by the clerk as an agent of the judiciary. Based upon this representation, we find the requested information is a record of the judiciary, and is thus, not subject to the Act. Accordingly, the clerk need not release the requested information in response to the present request.<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.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), 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

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<sup>2</sup>We note that records of the judiciary may be public under other sources of law. *See* Gov’t Code § 29.007(d)(4) (complaints filed with municipal court clerk); *id.* § 29.007(f) (municipal court clerks shall perform duties prescribed by law for county court clerk); Loc. Gov’t Code § 191.006 (records belonging to office of county clerk shall be open to public unless access restricted by law or court order); *see also Star-Telegram, Inc. v. Walker*, 834 S.W.2d 54, 57 (Tex. 1992) (documents filed with courts are generally considered public and must be released); Attorney General Opinions DM-166 (1992) at 2-3 (public has general right to inspect and copy judicial records), H-826 (1976); Open Records Decision No. 25 (1974). We also note that because the requested information is not subject to the Act, we need not address the requestor’s contention that the clerk failed to comply with the procedural requirements under the Act.

information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,

A handwritten signature in cursive script that reads "Paige Savoie".

Paige Savoie  
Assistant Attorney General  
Open Records Division

PS/eeg

Ref: ID# 340828

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)