

Tex. Att'y. Gen. Op. OR2023-23174 (Tex.A.G.), Tex. Att'y. Gen. Op. 2023-23174, 2023 WL 4838182

Office of the Attorney General

State of Texas

Informal Letter Ruling No. OR2023-23174

July 12, 2023

*1 Mr. **Jorge L. Trevino, Jr.**
Assistant Civil Legal Division Attorney
Webb County
1000 Houston Street, 2nd Floor
Laredo, Texas 78040

Dear Mr. **Trevino**:

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# 069659 (PIA# 3013).

Webb County (the "county") received a request for specified **autopsy** reports generated by the county's **medical examiner's** office (the "**medical examiner's** office") and communications related to requests for the specified **autopsy** reports. You assert the submitted information consists of records of the judiciary. We have considered your argument and reviewed the submitted representative sample of information.¹ We have also received and considered comments submitted by a representative of the requestor. See [Gov't Code § 552.304](#) (interested party may submit comments stating why information should or should not be released).

You state the **medical examiner's** office performs **autopsies** for smaller surrounding counties. You state, and provide documentation showing, the **autopsies** at issue were performed by the **medical examiner's** office pursuant to orders by **Justices** of the **Peace** from Dimmit County, Maverick County, and Val Verde County (the "**justice of the peace**") as part of judicial inquests into the deaths of individuals at issue. See [Crim. Proc. Code arts. §§ 49.04](#) (requiring **justice of the peace** to conduct inquest in certain circumstances), [.10](#) (listing circumstances in which **autopsy** shall be performed), [.15\(a\)](#) (requiring inquest record to be maintained in office of **justice of the peace**), [.15\(b\)\(8\)](#) (requiring that inquest record include **autopsy** report); see also *id.* arts. §§ 49.01-.24 (providing for duties of **justice of the peace** with regard to inquests and **autopsies**); [Attorney General Opinion GA-0389 \(2005\)](#). You explain the submitted information is not a record of the county or the **medical examiner's** office but is held as a judicial inquest record for the **justices** of the **peace**. Thus, the instant request is for information maintained on behalf of the **justices** of the **peace**.

We note the Act does not govern access to judicial records. See [Gov't Code § 552.003\(1\)\(B\)](#) (providing that the term "[g]overnmental body" ... does not include the judiciary"). "Access to information collected, assembled, or maintained by ... the judiciary is governed by rules adopted by the Texas Supreme Court or by other applicable laws and rules." *Id.* § 552.0035(a). Information collected, assembled, or maintained for the judiciary by an agent of the judiciary is not subject to the Act. *Id.*; see [Open Records Decision No. 513 at 2 \(1988\)](#) ("When an individual or entity acts at the direction of a grand jury as the grand jury's agent, information held or collected by the agent is within the grand jury's constructive possession."). Because a **justice of the peace** is a member of the judiciary, the records that a **justice of the peace** maintains are not subject to the Act. See [Tex. Const. art. V, § 1](#); [Open Records Decision No. 25 \(1974\)](#). Therefore, the Act "neither authorizes information held by the judiciary to be withheld nor requires it to be disclosed." [ORD 25 at 3](#) (construing statutory predecessor). In performing the **autopsies** at issue, the **medical examiner's** office was acting as the agent of the **justices of the peace** who ordered the **autopsies**, and thus, the requested records are collected and maintained by the **medical examiner's** office on behalf of the **justices of the peace**. Accordingly, we find the submitted information is in the constructive possession of the **justices of the peace**, is consequently not subject to the Act, and need not be released in response to the instant request for information.

*2 You ask this office to issue a previous determination stating that **autopsy** records, including orders to perform the **autopsies** at issue, prepared for **justices of the peace** from other counties are judicial records not subject to the Act. See

Gov't Code § 552.301(a) (allowing governmental body to withhold information subject to previous determination); Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under [section 552.301\(a\) of the Government Code](#)). We decline to issue such a previous determination at this time. Accordingly, 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Tim Neal
Assistant Attorney General
Open Records Division

Footnotes

- ¹ We 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.

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