



2. The DCJD is the second largest juvenile services department in the State of Texas. The DCJD is dedicated to improving the short-term and long-term outcomes of the youth under its authority. Its mission includes assisting youth to achieve their highest potential, promoting an environment of inclusion and fairness, and preparing the individuals under the Department's authority to live as productive, law-abiding members of society.

3. Mindful of these goals, the Texas Legislature created strict protections for records relating to juveniles under the care of the DCJD and similar juvenile programs in the State of Texas. These protections strictly limit who may review juvenile records and what records may be reviewed. The public policy behind these restrictions is to protect the privacy of these juveniles and ensure that they have an opportunity to move into adulthood without the social stigma of a criminal record. Indeed, there are arguably no other records provided more protection under Texas law than juvenile records.

4. When Commissioner Andrew Sommerman first sought access to protected juvenile records, Judge Cheryl Shannon, in her capacity as a Juvenile Court Judge, rightfully denied his request. Thereafter, Commissioner Sommerman has spearheaded an effort by the Commissioners Court to obtain those records via subpoena in direct violation of state law. Specifically, the Commissioners Court issued a subpoena directed to the DCJD, care of Darryl Beatty, its Executive Director, demanding that extremely voluminous records relating to juveniles in Dallas County detention facilities between January 1, 2023 and April 4, 2023 be produced with the threat of a fine or even jail time for non-compliance. The DCJD was given a mere 19 days to comply, including the Memorial Day holiday.

5. Everyone involved with the DCJD has the shared goal of ensuring that juveniles in detention facilities are treated with dignity and respect. The DCJD is also supervised by a highly qualified Juvenile Board that shares these goals. Nevertheless, all parties involved must follow the law.

And the law is clear that the Commissioners Court does not have the right to request for production and review the records in question.

6. In this lawsuit, Plaintiffs ask that the Court declare that Defendants have neither the right to request nor the right to view the records they seek via subpoena. The DCJD further asks that the Court enter an order protecting it from the Commissioners Court's improper subpoena or other actions to obtain the records in question. Finally, Plaintiffs ask this Court to order the Defendants to pay the Plaintiffs' reasonable and necessary attorneys' fees incurred in this matter, as are equitable and just.

**II.**  
**DISCOVERY CONTROL PLAN AND RULE 47 STATEMENT**

7. Plaintiffs intend to conduct discovery under Level 2 of Rule 190 of the Texas Rules of Civil Procedure. Plaintiffs seek only non-monetary relief, plus recovery of their reasonable and necessary attorneys' fees.

**III.**  
**PARTIES**

8. Plaintiff DCJD is an independent local government agency.

9. Plaintiff Darryl Beatty is the Executive Director of the DCJD.

10. Defendant Dallas County Commissioners Court is a governmental entity that may be served via the County Judge, Clay Jenkins, at his home business address at Records Building, 500 Elm Street, 7<sup>th</sup> Floor, Suite 7000, Dallas, Texas 75202, or wherever else he may be found.

11. Defendant Clay Jenkins is the Dallas County Commissioners Court Judge and may be served with process at his home business address at Records Building, 500 Elm Street, 7<sup>th</sup> Floor, Suite 7000, Dallas, Texas 75202, or wherever else he may be found.

**IV.**  
**JURISDICTION AND VENUE**

12. This Court has jurisdiction over this matter pursuant to the Texas Constitution, because Defendants are located in Texas.

13. Venue is proper in Dallas County because Defendants are all located in Dallas County. Tex. Civ. Prac. Rem. Code Sec. 15.002(2-3). Furthermore, venue is proper in Dallas County because all or a substantial part of the events or omissions giving rise to the claims set forth herein occurred in Dallas County. Tex. Civ. Prac. & Rem. Code Sec. 15.002(1).

**V.**  
**FACTUAL BACKGROUND**

***Background of Juvenile Board and DCJD***

14. The Dallas County Juvenile Board (“Juvenile Board”) was created pursuant to Texas Human Resources Code § 152.0631. The Juvenile Board was tasked with creating and then supervising a juvenile probation department in Dallas County, which is the DCJD. *See* Tex. Human Res. Code § 152.0007.

15. The DCJD, under the control and direction of the Juvenile Board, employs approximately 1,000 employees in various divisions. The DCJD is a separate governmental entity apart from Dallas County and the individuals who work for the DCJD are considered employees of the State of Texas, not Dallas County. *See, e.g., El Paso Cnty. v. Solorzano*, 351 S.W.3d 577, 583 (Tex. App.—El Paso 2011, no pet.) (“[W]e conclude an employee of the El Paso Juvenile Probation Department is not an ‘employee’ of the (sic) El Paso County under the TTCA because he is not subject to the County's control”). As noted by the Texas Attorney General, “[t]he purpose of the department, the provision of juvenile probation services, is not merely a county concern, but a state-wide one, provided in response to and under the direction of juvenile court orders and governed by state regulations.” Tex. Att’y Gen. Op. No. DM-460, citing Tex. Human Res. Code §§ 141.042, 142.001, 152.0007.

16. The composition of the Juvenile Board is dictated by statute. *See* Tex. Human Res. Code § 152.0631. The current Juvenile Board is made up of nine individuals as reflected in the following image taken from the Juvenile Board's website:



Judge Cheryl Lee Shannon  
Chairperson, 305th District Court



Judge Andrea Plumlee  
Vice-Chairperson, 304th District Court



Judge Andrea Martin  
304th District Court



County Judge Clay Jenkins



Judge Aiesha Redmond  
160th Civil District Court



Judge Amber Givens  
282nd Judicial District Court



Judge Stephanie Huff  
291st Judicial District Court (U)



Commissioner Andy Sommerman  
District 2



Sr. Corp. Robert White  
Youth Services Advisory Board Chair

### ***Commissioner Sommerman Begins Investigation***

17. On April 7, 2023, Commissioner John Wiley Price was replaced on the Juvenile Board by Commissioner Andrew Sommerman.

18. On April 12, 2023, Commissioner Sommerman conducted an in-person visit at the Dallas County Juvenile Detention Center as part of his orientation as the newest member of the Juvenile Board.

19. Following this visit, Commissioner Sommerman requested copies of Dallas County Youth Detention Observation Sheets (“Observation Sheets”) for juvenile facilities operated by the DCJD. These Observation Sheets record the status of each youth in custody at differing intervals, some as often as random intervals not to exceed 10 minutes. Based on the time period in question, the DCJD estimates that the Commissioners Court’s subpoena seeks production of approximately 90,000 Observation Sheets, all containing sensitive personally identifiable information, as well as controversial activities ranging from violence to suicide watch.

***Commissioner Sommerman Learns the Records Are Confidential Under Texas Law***

20. These juvenile records are clearly confidential per Texas Family Code Section 58.005 (a)(a-1), which states as follows:

CONFIDENTIALITY OF FACILITY RECORDS.

(a) This section applies only to the inspection, copying, and maintenance of a record concerning a child and to the storage of information from which a record could be generated, including personally identifiable information, information obtained for the purpose of diagnosis, examination, evaluation, or treatment of the child or for making a referral for treatment of the child, and other records or information, created by or in the possession of:

(1) the Texas Juvenile Justice Department;

(2) an entity having custody of the child under a contract with the Texas Juvenile Justice Department; or

(3) another public or private agency or institution having custody of the child under order of the juvenile court, including a facility operated by or under contract with a juvenile board or juvenile probation department.

(a-1) Except as provided by Article 15.27,<sup>1</sup> Code of Criminal Procedure, the records and information to which this section applies may be disclosed only to:

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<sup>1</sup> Article 15.27 of the Code of Criminal Procedure addresses notification of a school under certain circumstances; thus, it is inapplicable here.

(1) the professional staff or consultants of the agency or institution;

(2) the judge, probation officers, and professional staff or consultants of the juvenile court;

(3) an attorney for the child;

(4) a governmental agency if the disclosure is required or authorized by law;

(5) an individual or entity to whom the child is referred for treatment or services, including assistance in transitioning the child to the community after the child's release or discharge from a juvenile facility;

(6) the Texas Department of Criminal Justice and the Texas Juvenile Justice Department for the purpose of maintaining statistical records of recidivism and for diagnosis and classification;

(7) a prosecuting attorney;

(8) a parent, guardian, or custodian with whom a child will reside after the child's release or discharge from a juvenile facility;

(9) a governmental agency or court if the record is necessary for an administrative or legal proceeding and the personally identifiable information about the child is redacted before the record is disclosed; or

(10) with permission from the juvenile court, any other individual, agency, or institution having a legitimate interest in the proceeding or in the work of the court.

21. On April 28, 2023, Commissioner Sommerman emailed 305th Juvenile District Court Judge Cheryl Shannon (who serves as the Chairperson of the Juvenile Board, but was acting in her capacity as a Juvenile Court Judge) to officially request the Observation Sheets. In response, District Court Judge Shannon correctly stated that Commissioner Sommerman's request did not meet any exception to the confidentiality provisions under the Texas Family Code.

***Commissioners Court Issues Improper Subpoena***

22. On May 2, 2023, during a County Commissioners meeting, Commissioner Sommerman stated that he was investigating the issue of juveniles allegedly being kept in "solitary

confinement”, which is an incorrect statement of conditions. Curiously, Commissioner Sommerman had yet to attend a single meeting of the Juvenile Board when he made this statement. Thus, in no official proceeding of the Juvenile Board has Commissioner Sommerman called for a Juvenile Board investigation, which as explained below, it is exclusively charged with performing.

23. Based on Commissioner Sommerman's prompting, the Commissioners Court agreed to hold a special session regarding the Observation Sheets on May 8, 2023. At the conclusion of the session, by a 4-1 vote, the Commissioners Court issued Dallas County Commissioners Court Order 2023-0574 (the “Order”) requiring the DCJD and (arguably) Director Beatty to turn over the Observation Sheets for “each child in detention between January 1, 2023 and April 4, 2023” (the “Protected Records”). Commissioner John Wiley Price was the only member of the Commissioners Court to vote against the Order, correctly stating the Commissioners Court does not have the authority to request the Protected Records.

24. In furtherance of the Order, on May 11, 2023, the Commissioners Court issued a subpoena duces tecum (“Subpoena”) to the DCJD, care of Director Beatty, requiring production of the Protected Records on or before May 29, 2023 (or, given the Memorial Day holiday, May 30, 2023). The Subpoena noted on its face that a failure to comply could result in a fine or confinement.

***Texas Law Prohibits Disclosure of the Protected Records to the Commissioners Court***

25. The Subpoena is improper for at least three reasons. First, the Commissioners Court does not have the right to request or view the Protected Records or any other juvenile records relating to detention facilities operated by the DCJD. Both the Order and the Subpoena purport to be issued in compliance with Texas Family Code § 58.005(a)(a-1)(9). However, the Commissioners Court completely misconstrues the plain meaning of the statute. In fact, it fails to acknowledge the existence of Texas Family Code § 58.005(a). In the May 2, 2023, County Commissioners’ meeting and the subsequent May 8, 2023, County Commissioners’ meeting, neither Commissioner Sommerman nor

the Order address Texas Family Code § 58.005(a) which “applies only to the inspection, copying, and maintenance of a record concerning a child and to the storage of information from which a record could be generated, including personally identifiable information, information obtained for the purpose of diagnosis, examination, evaluation, or treatment of the child or for making a referral for treatment of the child, and other records or information, created by or in the possession of ...”

26. Particularly important here is the plain meaning and legislative intent of Texas Family Code § 58.005(a). Commissioner Sommerman has made it clear he is conducting an investigation/fact-finding for alleged abuse of youth in detention. The sole purpose of Family Code § 58.00(a) is for diagnosis, examination, evaluation, or treatment of the child or for making a referral for treatment of the child. There is no circumstance or fact pattern which would permit the County Commissioners to access juvenile detention records under Texas Family Code § 58.005(a). The Commissioners Court does not get to merely cite Texas Family Code § 58.005(a)(a-1)(9) to support their proposed interpretation and construe it in isolation from the rest of the section. Further, under Texas Family Code § 58.005(a)(a-1)(9), the Commissioners Court broadly construes “a governmental agency or court if the record is necessary for an administrative or legal proceeding and the personally identifiable information about the child is redacted before the record is disclosed.” It appears their interpretation includes that a County Commissioners meeting is an administrative or legal proceeding and a Commissioners Court is a governmental agency or court. Their interpretation is inaccurate under both scenarios and does not withstand further scrutiny.

27. A proper construction of Texas Family Code § 58.005 indicates there is a different meaning of Texas Family Code § 58.005(a)(a-1)(9). During the 2019 Texas Legislative Session, H.B. 1760 was passed which included, among other changes, adding Texas Family Code § 58.005(a)(a-1)(9). *See Acts 2019, 86<sup>th</sup> Leg., ch. 131 (H.B. 1760), § 1, eff. Sept, 1, 2019.* An example of the legislative intent includes a disciplinary hearing against a juvenile detention officer/employee of a juvenile

detention facility before the State Office of Administrative Hearings in which records from a facility must be admitted. *See* State Bar Section Report Juvenile Law Newsletter, Vol. 33, No. 3, August 2019, p. 20-21. (Commentary by Kaci Singer, Past Chair, Staff Attorney—Texas Juvenile Justice Department). When Texas Family Code § 58.005 is read in context, there is absolutely nothing to indicate the legislature intended “governmental agency or court if the record is necessary for an administrative or legal proceeding” to mean a County Commissioners’ meeting.

28. Further, even if the Commissioners Court's putative investigation of the Dallas County juvenile detention facilities otherwise qualified as an administrative or judicial proceeding, it would still not support the production of the Protected Records because the Commissioners Court does not have jurisdiction to conduct such an investigation. According to Texas Human Resources Code § 152.0631(g), jurisdiction for investigation of the DCJD and the juvenile detention facilities that it operates or supervises is vested in the Juvenile Board:

The board may investigate the operations of the juvenile probation department, the county institutions for the care of neglected, dependent, or delinquent children, or any other facility or program under the board’s jurisdiction, at the request of the judges of the district courts in Dallas County. The board shall make a written report of the investigation to the commissioners court.

While this provision provides that the Juvenile Board will make a written report of its own investigation to the Commissioners Court, it does not give the Commissioners Court the right to conduct any investigation. Since the Commissioners Court has no right to investigate the DCJD or its detention facilities, any purported investigation by the Commissioners Court could never qualify as a legitimate “administrative or legal proceeding” to support the production of protected juvenile records.

29. The Order and Subpoena further state that the Protected Records are “needed to carry out [the Commissioners Court’s] administrative functions to adequately fund and staff the Dallas County Juvenile Department and to assess County liability.” However, this purported basis does not

constitute an administrative or legal proceeding as required by Texas Family Code § 58.005(a)(a-1)(9). Further, the Commissioners Court's budgeting authority over the Juvenile Board and the DCJD is extremely limited and would not support the production of the Protected Records. In addressing the authority of a county commissioners court over a juvenile board, the Texas Attorney General stated as follows:

Because the board itself is an independent entity, its policy decisions are not within the jurisdiction of the commissioners court. See Tex. Att'y Gen. Op. No. DM-460 (1997). Neither are its employment decisions – whether they concern hiring, retention, salaries or raises. The commissioners court may decide the dollar amount it will give the board, and may review the county-funded programs *to the extent they are county-funded*. But it has no general supervisory authority over the board, or over those matters within the board's jurisdiction.

Tex. Att'y Gen. Op. No. JC-0085 (1999) (emphasis original). Because investigation of the DCJD and its detention facilities is exclusively within the Juvenile Board's jurisdiction, it is outside of the Commissioners Court's jurisdiction.

***The Subpoena Requires Director Beatty to Break the Law and Violate the Applicable Code of Ethics***

30. Second, the Subpoena requires Director Beatty to break the law and to violate his Code of Ethics as a State of Texas Certified Juvenile Probation Officer for over 28 years. According to Texas Administrative Code § 345.310, these ethical principles include abiding by all applicable laws (which would include the privacy protections under the Texas Family Code), respecting and protecting the legal rights of all juveniles, and maintaining the integrity and confidentiality of juvenile information.

***The Subpoena is Overly Broad, Unduly Burdensome, Expensive, and Harassing***

31. Third, even if the Commissioners Court did have some right to review juvenile records, requiring the DCJD to review and redact approximately 90,000 of pages of Protected Records, particularly in such a short period of time, is overly broad, unduly burdensome, expensive to comply with and harassing. Any inadvertent disclosure of personally identifiable information for a

juvenile could have life-long repercussions for that individual, especially in situations where violence and suicide watch are documented. Further, any improper disclosure could result in violation of state law. Every single page of the Protected Records would have to be closely scrutinized to avoid such inadvertent disclosure. The DCJD estimates that it would take at least 1,500 hours (based on a conservative estimate of one minute per page, which will be detailed in an upcoming affidavit) for the DCJD personnel or its counsel to review the Protected Records and redact out personally identifiable information. Thus, the costs of manpower and expense is enormous and unrealistic. The Commissioners Court is bypassing the proper process to request the Juvenile Court to access these records for purposes of an unauthorized investigation. County Judge Clay Jenkins and Commissioner Sommerman, who both serve on the Juvenile Board, have the standing to call for an investigation by the Juvenile Board, yet neither have called for it.

32. As set forth herein, the Subpoena is improper, violates Texas law and should not be enforced. In addition to filing this action, the DCJD is also filing a formal objection, a copy of which is attached hereto as “**Exhibit A**”, with the Commissioners Court. The DCJD also intends to file a Motion to Quash and for Protective Order with this Court shortly after the filing of this action.

**VI.**  
**FIRST CAUSE OF ACTION:**  
**DECLARATORY JUDGMENT**

33. Plaintiffs incorporate herein by reference the allegations set out in the foregoing paragraphs as though fully set forth herein.

34. As described above, the Subpoena is invalid and the Commissioners Court has no legal right to obtain copies of the Protected Records. First, the Commissioners Court’s purported need for the Protected Records does not fall within the sole purpose of Family Code § 58.00(a), i.e., for diagnosis, examination, evaluation, or treatment of the child or for making a referral for treatment of the child

35. Second, Texas Family Code § 58.005(a)(a-1) specifically identifies the parties to whom confidential juvenile records may be disclosed. Defendants claim to fall within the scope of subpart (9), which permits disclosure to a “government agency or court if the record is necessary for an administrative or legal proceeding.” However, the purported need for an administrative or legal proceeding must be legitimate. If the Commissioners Court can simply state, *ipse dixit*, that it needs juvenile records for an administrative or legal proceeding without further scrutiny, then the exception would swallow the rule and the Commissioners Court would have carte blanche to obtain protected juvenile records at any time.

36. In this case, the Commissioners Court cannot demonstrate the existence of *any* administrative or legal proceeding to support the production of the Protected Records, much less a legitimate proceeding. Moreover, the Commissioners Court has no right to investigate the DCJD or the detention facilities that it operates or supervises. Any attempt to do so infringes on the jurisdiction granted to the Juvenile Board under Texas law.

37. Accordingly, Plaintiffs seek a judgment from this Court declaring that (1) the Subpoena is unenforceable, (2) the Commissioners Court does not have the right to request or view the Protected Records per the Subpoena or in any other manner, (3) the Commissioners Court's purported efforts to “carry out its administrative functions to adequately fund and staff the Dallas County Juvenile Department and to assess County liability” does not constitute an “administrative or legal proceeding” under Texas Family Code § 58.005(a)(a-1)(9), and (4) the Commissioners Court has no right to investigate the DCJD or its detention facilities.

#### **ATTORNEYS' FEES**

38. Plaintiffs incorporate herein by reference the allegations set out in the foregoing paragraphs as though fully set forth herein.

39. Plaintiffs have retained the firm of Kane Russell Coleman Logan PC and the Law Office of Frank Adler to represent it in this action. Plaintiffs are entitled to recover their reasonable and necessary attorneys' fees under Civil Practice and Remedies Code § 37.001, as are equitable and just.

**VII.**  
**CONDITIONS PRECEDENT**

40. All conditions precedent have been performed or have occurred as required to bring the claims set forth herein.

**WHEREFORE, PREMISES CONSIDERED,** Plaintiffs respectfully pray that Defendants be cited to appear and answer herein, and that upon final trial or hearing hereof, the Court grant Plaintiffs judgment against Defendants, jointly and severally, for:

1. Declaratory relief that (1) the Subpoena is unenforceable, (2) the Commissioners Court does not have the right to request or view the Protected Records or the Subpoena or in any other manner, (3) the Commissioners Court's purported efforts to "carry out its administrative functions to adequately fund and staff the Dallas County Juvenile Department and to assess County liability" does not constitute an "administrative or legal proceeding" under Texas Family Code § 58.005(a)(a-1)(9), and (4) the Commissioners Court has no right to investigate the DCJD and its detention facilities;
2. Costs of court;
3. Reasonable and necessary attorneys' fees incurred by Plaintiffs through the trial and all appeals of this cause as are equitable and just; and
4. Such other and further relief to which Plaintiffs may show themselves justly entitled.

Respectfully submitted,

**KANE RUSSELL COLEMAN LOGAN PC**

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**ATTORNEYS FOR PLAINTIFFS**

**EXHIBIT**

**"A"**

**OBJECTION AND RESPONSE TO SUBPOENA DUCES TECUM**

TO: Darryl Martin, Dallas County Administrator, 500 Elm Street, Suite 7600, Dallas, Texas 75202.

The Dallas County Juvenile Department and Darryl Beatty<sup>1</sup> (together, “Respondents”) serve their Objection and Response to Dallas County Commissioners Court Subpoena/Subpoena Duces Tecum issued on May 11, 2023 (“Subpoena”), as follows.

**REQUEST:** Production of the observation sheets for each child in detention between January 1, 2023 and April 4, 2023 pursuant to Texas Family Code § 58.005 (a-1)(9), and/or any other applicable authority, with all personally identifiable information about the children redacted before the records are disclosed.

**RESPONSE:** Respondents object to the foregoing request on the following grounds:<sup>2</sup>

First, the Commissioners Court does not have the right to request or review the Protected Records. Further, to the extent any investigation relating to juveniles in Dallas County detention facilities is warranted, such an investigation must be conducted by the Dallas County Juvenile Board as a matter of law.

Second, because the Commissioners Court has no right to review the Protected Records or conduct any investigation, and because it would take an extraordinary amount of time for the DCJD to compile and review responsive records to redact out personally identifiable information, the Subpoena creates an undue burden and unnecessary expense for the DCJD.

Third, given that two of the County Commissioners sit on the Juvenile Board that is actually charged with supervising the DCJD and should be aware of the proper procedures for an investigation, the Subpoena is unquestionably harassing and annoying to the DCJD.

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<sup>1</sup> Although the Subpoena appears to be directed solely to the DCJD, these objections are served on behalf of both the DCJD and Director Beatty out of an abundance of caution.

<sup>2</sup> Plaintiffs also fully adopt and incorporate their Original Petition and Motion to Quash and for Protective Order filed in connection with the Subpoena as if fully set forth herein.

Fourth, as further detailed below, the Subpoena invades the personal and statutory privacy rights of juveniles in Dallas County detention facilities.

***Texas Law Prohibits Disclosure of the Protected Records to the Commissioners Court***

The Commissioners Court does not have the right to request or view the Protected Records or any other juvenile records relating to detention facilities operated by the DCJD. The Subpoena purports to be issued in compliance with Texas Family Code § 58.005(a)(a-1)(9). However, the Commissioners Court completely misconstrues the plain meaning of the statute. In fact, it fails to acknowledge the existence of Texas Family Code § 58.005(a). In the May 2, 2023, County Commissioners' meeting and the subsequent May 8, 2023, County Commissioners' meeting, neither Commissioner Sommerman nor the Commissioners Court's order address Texas Family Code § 58.005(a) which "applies only to the inspection, copying, and maintenance of a record concerning a child and to the storage of information from which a record could be generated, including personally identifiable information, information obtained for the purpose of diagnosis, examination, evaluation, or treatment of the child or for making a referral for treatment of the child, and other records or information, created by or in the possession of ...."

Particularly important here is the plain meaning and legislative intent of Texas Family Code § 58.005(a). Commissioner Sommerman has made it clear he is conducting an investigation/fact-finding for alleged abuse of youth in detention. The sole purpose of Family Code § 58.00(a) is for diagnosis, examination, evaluation, or treatment of the child or for making a referral for treatment of the child. There is no circumstance or fact pattern which would permit the County Commissioners to access juvenile detention records under Texas Family Code § 58.005(a). The Commissioners Court does not get to merely cite Texas Family Code § 58.005(a)(a-1)(9) to support their proposed interpretation and construe it in isolation from the rest of the section. Further, under Texas Family Code § 58.005(a)(a-1)(9), the Commissioners Court broadly construes "a governmental agency or court if the record is

necessary for an administrative or legal proceeding and the personally identifiable information about the child is redacted before the record is disclosed.” It appears their interpretation includes that a County Commissioners meeting is an administrative or legal proceeding and a Commissioners Court is a governmental agency or court. Their interpretation is inaccurate under both scenarios and does not withstand further scrutiny.

A proper construction of Texas Family Code § 58.005 indicates there is a different meaning of Texas Family Code § 58.005(a)(a-1)(9). During the 2019 Texas Legislative Session, H.B. 1760 was passed which included, among other changes, adding Texas Family Code § 58.005(a)(a-1)(9). *See Acts 2019, 86<sup>th</sup> Leg., ch. 131 (H.B. 1760), § 1, eff. Sept, 1, 2019.* An example of the legislative intent includes a disciplinary hearing against a juvenile detention officer/employee of a juvenile detention facility before the State Office of Administrative Hearings in which records from a facility must be admitted. *See State Bar Section Report Juvenile Law Newsletter, Vol. 33, No. 3, August 2019, p. 20-21. (Commentary by Kaci Singer, Past Chair, Staff Attorney—Texas Juvenile Justice Department).* When Texas Family Code § 58.005 is read in context, there is absolutely nothing to indicate the legislature intended “governmental agency or court if the record is necessary for an administrative or legal proceeding” to mean a County Commissioners’ meeting.

Further, even if the Commissioners Court's putative investigation of the Dallas County juvenile detention facilities otherwise qualified as an administrative or judicial proceeding, it would still not support the production of the Protected Records because the Commissioners Court does not have jurisdiction to conduct such an investigation. According to Texas Human Resources Code § 152.0631(g), jurisdiction for investigation of the DCJD and the juvenile detention facilities that it operates or supervises is vested in the Juvenile Board:

The board may investigate the operations of the juvenile probation department, the county institutions for the care of neglected, dependent, or delinquent children, or any other facility or program under the board’s jurisdiction, at the request of the judges of the

district courts in Dallas County. The board shall make a written report of the investigation to the commissioners court.

While this provision provides that the Juvenile Board will make a written report of its own investigation to the Commissioners Court, it does not give the Commissioners Court the right to conduct any investigation. Since the Commissioners Court has no right to investigate the DCJD or its detention facilities, any purported investigation by the Commissioners Court could never qualify as a legitimate “administrative or legal proceeding” to support the production of protected juvenile records.

The Subpoena further states that the Protected Records are “needed to carry out [the Commissioners Court’s] administrative functions to adequately fund and staff the Dallas County Juvenile Department and to assess County liability.” However, this purported basis does not constitute an administrative or legal proceeding as required by Texas Family Code § 58.005(a)(a-1)(9). Further, the Commissioners Court's budgeting authority over the Juvenile Board and the DCJD is extremely limited and would not support the production of the Protected Records. In addressing the authority of a county commissioners court over a juvenile board, the Texas Attorney General stated as follows:

Because the board itself is an independent entity, its policy decisions are not within the jurisdiction of the commissioners court. See Tex. Att’y Gen. Op. No. DM-460 (1997). Neither are its employment decisions – whether they concern hiring, retention, salaries or raises. The commissioners court may decide the dollar amount it will give the board, and may review the county-funded programs *to the extent they are county-funded*. But it has no general supervisory authority over the board, or over those matters within the board's jurisdiction.

Tex. Att’y Gen. Op. No. JC-0085 (1999) (emphasis original). Because investigation of the DCJD and its detention facilities is exclusively within the Juvenile Board's jurisdiction, it is outside of the Commissioners Court's jurisdiction.

***The Subpoena Requires Director Beatty to Break the Law and Violate the Applicable Code of Ethics***

The Subpoena requires Director Beatty to break the law and to violate his Code of Ethics as a State of Texas Certified Juvenile Probation Officer for over 28 years. According to Texas Administrative Code § 345.310, these ethical principles include abiding by all applicable laws (which would include the privacy protections under the Texas Family Code), respecting and protecting the legal rights of all juveniles, and maintaining the integrity and confidentiality of juvenile information.

***The Subpoena is Overly Broad, Unduly Burdensome, Unnecessarily Expensive, Harassing and Annoying***

Even if the Commissioners Court did have some right to review juvenile records, requiring the DCJD to review and redact approximately 90,000 of pages of Protected Records, particularly in such a short period of time, is overly broad, unduly burdensome, expensive to comply with and harassing. Any inadvertent disclosure of personally identifiable information for a juvenile could have life-long repercussions for that individual, especially in situations where violence and suicide watch are documented. Further, any improper disclosure could result in violation of state law. Every single page of the Protected Records would have to be closely scrutinized to avoid such inadvertent disclosure. The DCJD estimates that it would take at least 1,500 hours (based on a conservative estimate of 1 minute per page, which will be detailed in an upcoming affidavit) for the DCJD personnel or its counsel to review the Protected Records and redact out personally identifiable information. Thus the costs of manpower and expense are enormous and unrealistic.

***The Subpoena Invades the Privacy Rights of Juveniles***

The Subpoena provides that personally identifiable information can be removed from the Protected Records before production. But it is not clear as to what is considered “personally identifiable information.” Even if names and section and room numbers are removed from the records, it would still be possible for third parties to reverse engineer their way to identify juveniles

based on other available information and the process of elimination. If the Protected Records are produced, even in redacted form, one more document request or conversation with the listed supervisory officer could potentially allow a third party to identify the child.

Respectfully submitted,

**KANE RUSSELL COLEMAN LOGAN PC**

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**LAW OFFICE OF FRANK ADLER**

By: /s/ Frank Adler  
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**ATTORNEYS FOR PLAINTIFFS**

**CERTIFICATE OF SERVICE**

This is to certify that on this the 30th day of May, 2023, a true and correct copy of the above and foregoing instrument was properly served as follows:

**VIA HAND DELIVERY**

Darryl Martin  
Dallas County Administrator  
500 Elm Street, Suite 7600  
Dallas, Texas 75202

*/s/ Brian N. Hail* \_\_\_\_\_  
Brian N. Hail

### Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Dora Torres on behalf of Brian Hail  
Bar No. 8705500  
DTorres@krcl.com  
Envelope ID: 76091380  
Filing Code Description: Original Petition  
Filing Description:  
Status as of 5/30/2023 12:21 PM CST

Associated Case Party: DALLAS COUNTY JUVENILE DEPARTMENT A/K/A  
DALLAS COUNTY JUVENILE PROBATION DEPARTMENT AND DARRYL BEATTY,  
IN HIS OFFICIAL CAPACITY AS EXECUTIVE DIRECTOR OF DALLAS COUNTY  
JUVENILE DEPARTMENT

Name	BarNumber	Email	TimestampSubmitted	Status
Brian Clark		bclark@krcl.com	5/30/2023 11:02:00 AM	SENT
Brian N.Hail		bhail@krcl.com	5/30/2023 11:02:00 AM	SENT

#### Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Frankie Adler	24056787	frankadlerlaw@gmail.com	5/30/2023 11:02:00 AM	SENT
Dora Torres		dtorres@krcl.com	5/30/2023 11:02:00 AM	SENT