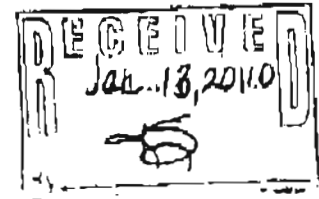


**R&R**  
RUSSELL & RODRIGUEZ, L.L.P.  
ATTORNEYS AT LAW



1633 WILLIAMS DRIVE  
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GEORGETOWN, TEXAS 78628

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krussell@txadminlaw.com

January 13, 2011

Via Hand Delivery

Mr. John Bradley  
Williamson County District Attorney  
405 MLK Street, Suite 265  
Georgetown, TX 78626

Re: Notice of Complaint

Dear Mr. Bradley:

Please consider this letter a complaint against Williamson County Attorney Jana Duty for violation of Texas Local Government Code Section 202.008. Based on the facts stated below I am requesting that you file charges and prosecute Ms. Duty for this violation.

1. On or about May 1, 2008 four Williamson County Court at Law judges sent a message to County Judge Dan Gattis regarding Ms. Duty's representation. See Attachment A.
2. On or about June 1, 2008 Ms. Duty sent a memorandum regarding the May 1 message to Judges Wright, Brooks, and McMaster. See Attachment B for a redacted copy of the memorandum.
3. Ms. Duty marked the memorandum Attorney/Client Privileged which indicated it was drafted and sent as part of her official duties as County Attorney.
4. Ms. Duty's June 1 memorandum is a local government record under Texas Local Government Code Section 201.003(8) and Section 201.005(a).
5. Ms. Duty stated in her June 1 memorandum that she would destroy the memorandum so it would not have to be disclosed in response to a future public information request.
6. By letter mailed on November 16, 2010 I made a public information request which would specifically include Ms. Duty's June 1, 2008 memorandum. See Attachment C.
7. By fax to me on November 18, 2010 Ms. Duty advised me the requested local government record did not exist in her files; thereby, I believe, confirming that she had previously destroyed it. See Attachment D.
8. As an elected county officer, Ms. Duty is the records management officer for the record she generated in her official capacity pursuant to Local Government Code Sec. 203.001.

Mr. John Bradley  
January 13, 2011  
Page 2 of 2

9. As a records retention schedule for the County's records could not be located, the Texas State Archives and Library Commission has established minimum records retention schedules for local governments, including counties. See Texas Government Code Section 441.158 and Local Schedule GR (3<sup>rd</sup> Edition), *Retention Schedule for Records Common to All Governments*. As Ms. Duty's records is a memoranda that pertains to the "formulation, planning, implementation, *modification, or redefinition* of the policies, programs, services or projects of a local government" (emphasis added), the memoranda should have been retained by her for a minimum of five years pursuant to Section 1-2, 1000-26 (a) of the above-cited records retention schedule formulated by the TSL.
10. Under Texas Local Government Code Section 202.008 and Texas Penal Code Section 37.10(a)(3) and (c), intentional destruction of a local government record is a Class A misdemeanor.

By copy of this complaint I am notifying the State Bar of Texas as required by Rule 8.03 of the State Bar of Texas Rules Governing Professional Conduct. Since Ms. Duty apparently committed this violation as part of her representation of the Williamson County Commissioners Court, I am also notifying Judge Gattis and the Commissioners of this action by their attorney.

Please advise me of any additional information you may need.

Respectfully,



Kerry E. Russell

Cc: State Bar of Texas  
Williamson County Commissioners Court



To: The Honorable Dan A. Gattis, County Judge

Date: May 1, 2008

We, the undersigned Judges of the County Courts at Law, Williamson County, Texas, request the Commissioner's Court's approval for private legal counsel in any and all pending cases as well as any future cases which might from time to time involve any or all of the aforesaid Courts at Law.

Stephen Ackley, Assistant County Attorney, currently assigned to our cases has engaged in conduct and communications regarding the Judges and Courts and others that has destroyed the integrity of the Attorney-Client relationship.

It is believed his actions have so severely undermined our trust and confidence as to make further representation by him unfeasible if not impossible.

Don Higginbotham  
Judge Don Higginbotham  
County Court at Law Number Three

Tim Wright  
Judge Tim Wright  
County Court at Law Number Two

Suzanne Brooks  
Judge Suzanne Brooks  
County Court at Law Number One

John S. McMaster  
Judge John McMaster  
County Court at Law Number Four

*5-1-08*

ATTORNEY/CLIENT  
PRIVILEGED

Sunday, June 1, 2008

Judges Wright, Brooks and McMaster,

As I am sure you are aware by now, the Austin American Statesman has requested a copy of the letter you submitted to Judge Gattis one month ago. I can't help but wonder who leaked this information to the Statesman, as I just became aware that the letter even existed a few days ago. I will be responding to the letter when the reporter calls me.

I will attempt to downplay this story, in hopes that it does not escalate any further. If the story does escalate, then I will have no choice but to tell the reporter the background that has lead us to this point.

One issue that I will not discuss with the reporter, yet, is that if the Commissioners' Court attempts to take this core statutory duty away from me, I will file a Writ of Mandamus against them.

Sadly, it has always been important to me to maintain a good working relationship with the CCL judges, which is why I have made the county courts a priority. Now that there is no reason to maintain this relationship, as it has been completely destroyed, I no longer have an incentive to prioritize the criminal courts. If this issue continues to escalate, then I will reorganize my staff to prioritize my GPS, Protective Orders, juvenile, and civil areas. These areas have been taxed and reorganization will allow these areas to have the prosecutor staff that the criminal courts have enjoyed.

It seems peculiar to me that Don seems to be the person driving this fight, yet he is the only person who has nothing to lose. I hope you will seriously consider how a public fight is going to hurt all of us that are seeking re-election. I hope this fight stops immediately after the Statesman prints its article.

I will not maintain a copy of this letter so that it will not have to be disclosed in any future PIA requests.

Jana  
*Jana*

R&R  
RUSSELL & RODRIGUEZ, L.L.P.  
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**VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED**

Ms. Jana Duty  
County Attorney  
405 M.L.K., Suite 240  
Georgetown, Texas 78626

Re: Request for information pursuant to the Texas Open Records Act

Dear Ms. Duty:

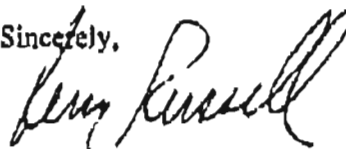
This letter is to serve as a formal request pursuant to the Texas Open Records Act to obtain the following public documents:

1. Any and all June 2008 letters or memos written by you and addressed to any County Court at Law judge in Williamson County.
2. Any and all June 2008 letters or memos from any County Court at Law judge in Williamson County to the County Judge regarding your, or your office's, representation of any of those judges.

We will pay the reasonable copy costs for the documents. We will also arrange for pick up of these items once they are ready.

If you have any questions, please telephone me at (512) 930-1317. Thank you for your assistance.

Sincerely,



Kerry E. Russell





**JANA DUTY**  
WILLIAMSON COUNTY ATTORNEY  
405 M.L.K. STREET, BOX 7  
GEORGETOWN, TEXAS 78626  
(512) 943-1111 • (512) 943-1120 fax  
<http://www.wilco.org>

Dale A. Rye, Of Counsel  
Henry "Hank" Proctor, Civil Chief  
Doyle "Doc" Tobias, Jr., Criminal Chief  
Allen Remmon, Family Justice Chief  
Michael Cox  
Kevin Saylor  
Tina Crowl  
Brandon Keith Dakroub  
Jacole Dorchonding  
Betsy Webster  
Jin Macrauch  
Geoffrey D. Puryear  
Heather B. Ticker  
Melissa Parker Harvey  
Kiel Garvey Evans  
Brian Patrick Kist  
Stephanie Renee Maughon

November 18, 2010

Russell & Rodriguez, L.L.P.  
Attorneys at Law  
1633 Williams Drive  
Building 2, Suite 200  
Georgetown, Texas 78626

Re: Public Information Act Request

Dear Mr. Russell,

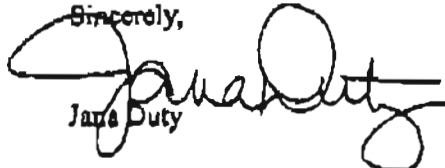
In response to your Public Information Act request received by this office on November 17, 2010:

1. Any and all June 2008 letters or memos written by you and addressed to any county court at law judge in Williamson County.

**I have no responsive information to this request.**

2. Any and all June 2008 letters or memos from any county court at law judge in Williamson County to the county judge regarding your, or your office's representation of any of those judges.

**I have no responsive information to this request.**

Sincerely,  
  
Jana Duty