

**RECEIVED**

By Opinion Committee at 9:45 am, Aug 01, 2022

**ASSISTANT COUNTY  
ATTORNEYS**  
Robert Carter  
Katy Spraberry

**PARALEGAL**  
Justin Stobaugh

**ADMINISTRATIVE  
ASSISTANT**  
Roberta Stringer

## HOOD COUNTY ATTORNEY'S OFFICE

HOOD COUNTY  
JUSTICE CENTER

1200 W. PEARL STREET  
GRANBURY, TEXAS 76048



WWW.CO.HOOD.TX.US

**PHONE**  
(817) 579-3215  
(817) 579-3216

**FAX**  
(817) 579-3218  
(817) 579-3257

**VICTIM ASSISTANCE**  
Maria Bustamante

**CRIMINAL DIVISION**  
Marsha Dickens

**MATTHEW A. MILLS, COUNTY ATTORNEY**

August 1, 2022

The Honorable Ken Paxton  
Office of the Attorney General of Texas  
Attention: Opinion Committee  
P.O. Box 12548  
Austin, TX 78711-2548

**RQ-0470-KP**  
**FILE# ML-49152-22**  
**I.D.# 49152**

Re: Authority to determine software systems for county departments

Dear Attorney General Paxton,

With this letter, I respectfully ask that you provide a formal written opinion regarding the aforementioned issue.

### Background

Hood County is in the middle of a software conversion process for numerous offices, which would transition the county from NET Data to Tyler Technologies ("Tyler"). The commissioners court voted to approve this transition on June 8, 2021, despite opposition from three justices of the peace and the county clerk. Work began to transition on August 30, 2021. The conversion process has been a difficult one for several offices, and the "go live" date with Tyler has been delayed.

On July 26, 2022, the commissioners court considered a request from the objecting offices to remain with NET Data after the struggles in the conversion process. However, the court again voted to keep the conversion process going with Tyler.

According to the objecting justices of the peace and my research, there does appear to be a valid argument that NET Data has a better product for justice courts. However, both NET Data and Tyler are widely used by justice courts, clerks' offices, and other county offices throughout the state.

### Authorities

Section 203.001 of the Texas Local Government Code states that every elected official is the records management officer for that office. Commissioners courts have a duty to adequately provide elected officials with the tools they need to perform their jobs. Tex. Att'y. Gen. Op. No.

JM-770 (1987). This includes promoting and supporting “the efficient and economical management of records of all elective offices in the county,” according to Section 203.003(1) of the Texas Local Government Code.

However, Texas case law creates an exception specifically granting only auditors the authority to select their own software, due to the “independent administrative duties and discretionary powers” of auditors. *Comm’rs Ct. of Harris County v. Fullerton*, 596 S.W.2d 572, 276 (Tex.Civ.App.—Houston [1<sup>st</sup> Dist.] 1980). Generally, commissioners courts control decisions about “high technology items” for the county, as set forth in Section 262.030 of the Texas Local Government Code. This is further supported by an opinion from your office regarding whether an auditor could dictate software for the rest of the county, which states, “[h]owever, the auditor may not, as you contend, dictate which equipment county officers shall use. Such a determination is appropriately reserved for the commissioners court in the exercise of its discretion in approving budgets and making contracts for the purchase of equipment and supplies for the county.” Tex. Att’y. Gen. Op. No. JM-1275 (1990).

#### Question

Assuming NET Data is a superior product for justices of the peace, and considering elected officials are the records management officials for their offices, do the justices of the peace in Hood County have legal recourse if the commissioners court approves a new software system for their offices over their objections?

Thank you very much for your time and attention to this matter. Should your office require further information to clarify the nature of this request, please do not hesitate to contact me.

Respectfully,



Matthew A. Mills  
Hood County Attorney