



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 8, 2016

Ms. Ann-Marie Sheely
Assistant County Attorney
Travis County
P.O. Box 1748
Austin, Texas 78767

OR2016-27240

Dear Ms. Sheely:

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# 637145.

The Travis County Juvenile Probation Department (the "department") received a request for six categories of information pertaining to the department's Domestic Relations Office (the "DRO").¹ You state some of the requested information does not exist.² You state you have released some information to the requestor. You claim the submitted information is not

¹We note you sent the requestor an estimate of charges pursuant to section 552.2615 of the Government Code. *See* Gov't Code § 552.2615. The estimate of charges required the requestor to provide a deposit for payment of anticipated costs under section 552.263 of the Government Code. *See id.* § 552.263(a). You inform us the department received the required deposit on September 16, 2016. *See id.* § 552.263(e) (if governmental body requires deposit or bond for anticipated costs pursuant to section 552.263, request for information is considered to have been received on date governmental body receives bond or deposit).

²The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. *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), 563 at 8 (1990), 555 at 1-2(1990), 452 at 3 (1986), 362 at 2 (1983).

subject to the Act. We have considered your argument and reviewed the submitted representative sample of information.³

You indicate, and the request for information reflects, the submitted information is maintained solely by the DRO in relation to the administration of family court services. We note the Act only applies to information that is “written, produced, 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). In *Benavides v. Lee*, 665 S.W.2d 151 (Tex. App.—San Antonio 1983, no writ), the court explained the purpose of the judiciary exception as follows:

The judiciary exception . . . is important to safeguard judicial proceedings and maintain the independence of the judicial branch of government, preserving statutory and case law already governing access to judicial records. But it must not be extended to every governmental entity having any connection with the judiciary.

Id. at 152. The court in *Benavides* found the Webb County Juvenile Board not to be a part of the judiciary. In so finding, the court reasoned that an analysis of the judiciary exception should focus on the governmental body itself and the kind of information requested. *See id.* at 151; *see also* Open Records Decision No. 572 (1990). This office has found that to fall under the judiciary exclusion, requested records must contain information that pertains to judicial proceedings and be subject to direct supervision of a court. Open Records Decision No. 671 (2001) (citing Open Records Decision No. 646 at 5 (1996)).

The DRO was established pursuant to section 203.002 of the Family Code to administer family court services. *See* Fam. Code §§ 203.002 (commissioner’s court may establish domestic relations office), .003 (domestic relations office shall be administered as provided by commissioner’s court or juvenile board). The DRO administers access and visitation programs on behalf of Travis County family law courts. Therefore, we understand the DRO is acting “as an arm of the court.” *See Delcourt v. Silverman*, 919 S.W.2d 777 (Tex. App.—Houston [14th Dist] 1996 writ denied) (finding that guardian ad litem in child custody case was entitled to judicial immunity because ad litem was functionary or arm of court when

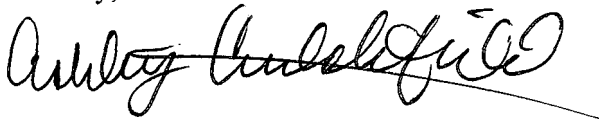
³We assume the “representative sample” of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

engaged in investigating facts and reporting to court); *see also* Open Records Decision No. 646 at 4 (finding that function that governmental entity performs determines whether entity falls within judiciary exception to the Act). Accordingly, we conclude the submitted information maintained by the DRO on behalf of the judiciary is not subject to the Act and need not be released in response to this request for information.⁴

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Ashley Crutchfield
Assistant Attorney General
Open Records Division

AC/bw

Ref: ID# 637145

Enc. Submitted documents

c: Requestor
(w/o enclosures)

⁴We note records of the judiciary also may be public under other sources of law. *See* Local 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).