



OFFICE *of the* ATTORNEY GENERAL
GREG ABBOTT

July 22, 2003

Ms. Julie Joe
Assistant County Attorney
County of Travis
P. O. Box 1748
Austin, Texas 78767

OR2003-5035

Dear Ms. Joe:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 184647.

The Travis County Domestic Relations Office (the "office") received a request for the names and addresses of all Travis County parents who are delinquent in their child support obligations. You claim that pursuant to section 552.003 of the Government Code, the requested information is not subject to disclosure under chapter 552. In the alternative, you claim that the requested information is excepted from disclosure under sections 552.101, 552.103, and 552.108 of the Government Code. We have considered your arguments and reviewed the submitted representative sample of information.¹

We note that records of the judiciary are specifically excepted from the provisions of the Public Information Act (the "Act"). See Gov't Code § 552.003(1)(B). 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.

¹We assume that 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.

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)).

You inform us that the office derives its authority from chapter 203 of the Family Code. *See* Family 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). You also state that by local rule, the office serves as the local registry of the court for all Travis County district courts and that the courts have directed the office to maintain records of child support payments and have designated the office as the official custodian of child support payment records. Therefore, we understand that the office is acting "as an arm of the court" in maintaining the records at issue. *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 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 that the requested information falls within the judiciary exception, and the office is not required to comply with this request under chapter 552 of the Government Code.² As chapter 552 is not applicable in this instance, we need not address your alternative arguments.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the

²We note, however, that certain judicial records may be open to the public under sources of law other than chapter 552. *See Star-Telegram, Inc. v. Walker*, 834 S.W.2d 54 (Tex. 1992) (documents filed with court are generally considered to be public); Attorney General Opinion DM-166 at 3 (public has general right to inspect and copy judicial records); Open Records Decision No. 618 at 4 (Texas courts have recognized common-law right of public to inspect and copy records of the judiciary).

governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Sarah I. Swanson
Assistant Attorney General
Open Records Division

SIS/lmt

Ref: ID# 184647

Enc. Submitted documents

c: Mr. Charlie Nohra
Director
CSAR Systems
P. O. Box 49461
Austin, Texas 78765-9461
(w/o enclosures)