



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 15, 2007

Ms. Lynne Wilkerson
General Counsel
Bexar County Juvenile Probation Department
235 East Mitchell Street
San Antonio, Texas 78210-3845

OR2007-02913

Dear Ms. Wilkerson:

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# 273595.

The Bexar County Juvenile Probation Department Domestic Relations Office (the "DRO") received a request for documentation relating to reasons that the DRO's Access and Visitation Program discontinued its assistance to a named individual. You claim that the requested information consists of judicial records that are not subject to disclosure under the Act. Alternatively, you claim that the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered your arguments and reviewed the submitted information.

Records of the judiciary are specifically excepted from the provisions of 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.

Benavides, 665 S.W.3d 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 DRO derives its authority from chapter 203 of the Family Code and was created “for the primary purpose of providing support to the [Bexar County] civil courts in cases involving the parent-child relationship.” *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 explain that the DRO’s access visitation enforcement program directly serves the courts in that it enforces and protects the integrity of the courts’ orders in family law cases involving children. You also state that the DRO collects information from the program’s applicants and maintains records in the course of its enforcement duties on behalf of the judiciary. In this instance, the requested information pertains to an applicant to the program and was collected in the course of providing visitation enforcement services. Therefore, we understand that the DRO 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 agree that the submitted records are records of the judiciary that are not subject to disclosure under the Act. Therefore, the DRO is not required to comply with this request under the Act.¹ Because the Act 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

¹We note, however, that certain judicial records may be open to the public under sources of law other than the Act. *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).

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 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).

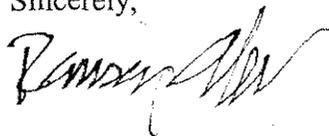
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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 Office of the Attorney General 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. 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,



Ramsey A. Abarca
Assistant Attorney General
Open Records Division

RAA/eb

Ref: ID# 273595

Enc. Submitted documents

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(w/o enclosures)