

Before the Presiding Judges of the Administrative Judicial Regions

Per Curiam Rule 12 Decision

APPEAL NO.: 00-003

RESPONDENT: Rey Flores, et al.

DATE: April 26, 2000

SPECIAL COMMITTEE: Judge Pat McDowell, Judge B. B. Schraub, Judge Darrell Hester, Judge Stephen Ables, Judge Jeff Walker

The applicant is an attorney who has requested the names of individuals on community supervision/probation in Dallas, Tarrant, Hunt, Collin, Hopkins, Rockwall, Lamar, and Denton counties. His company seeks to give legal assistance to individuals on community supervision. The request was made to the directors of the various community supervision and corrections departments of the counties. Each of the directors refused to provide the requested names. The reasons for the refusals included one or more of the following: (1) the records were exempt from the Public Information Act (formerly the Open Records Act) as records of the judiciary; (2) the records were created, produced, or filed in connection with a matter that has been before a court; (3) the records did not exist in the form requested and respondent was not required to create a record; (4) the records reflected the home addresses of the probationers and were exempt from disclosure; and (5) compliance with the request would substantially and unreasonably impede the routine operation of the department(s). The applicant has filed a petition for review of the denials of access.

The governmental bodies subject to the Public Information Act do not include the judiciary. Government Code §552.003(1)(B). Access to information collected, assembled, or maintained by or for the judiciary is governed by Supreme Court rules or by other law. Government Code §552.0035(a). The records requested by this applicant are maintained pursuant to Article 42.12 of the Texas Code of Criminal Procedure. That statute places responsibility for the community supervision program “wholly within the state courts . . .” *Id.* at §1. Thus, records of probationers maintained by probation offices pursuant to Article 42.12 are records of the judiciary and are not subject to the Public Information Act. O.R.D. No. 236 (1980).

As these records are records of the judiciary, we next must determine whether they are “judicial records,” which are governed by Rule 12 of the Rules of Judicial Administration. Rule 12.2(d) provides as follows:

“*Judicial record* means a record made or maintained by or for a court or judicial agency in its regular course of business but not pertaining to its adjudicative function, regardless of whether that function relates to a specific case. A record of any nature created,

produced, or filed in connection with any matter that is or has been before a court is not a judicial record.”

Records of the names and addresses of probationers are records created, produced, or filed in connection with criminal cases that have been before the court which placed the probationer under

Article 42.12 community supervision. As such, the records are not judicial records subject to disclosure pursuant to Rule 12, and we need not reach the exemption issues raised by some of the respondents.

We note, however, that case records or court records which are not judicial records within the meaning of Rule 12 may be open pursuant to other law and to other process (such as mandamus). *See* Rule 12 Decision 00-001; *see also* Rule 12.9(n). We also note that the usual custodian of court records related to a specific case is the clerk.

For the reasons stated, this review committee can neither grant the petition in whole or in part nor sustain the denial of access to the requested records.