



July 5, 1999

Mr. Don Ballard
Assistant Attorney General
Public Information Coordinator
P.O. Box 12548
Austin, Texas 78711-2548

OR99-1864

Dear Mr. Ballard:

You have asked whether certain information is subject to required public disclosure under the Texas Public Information Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 124698.

The Office of the Attorney General (the "OAG") received a request for "all court documents and other documents that are public record related to," child support, medical license suspension or driver's license suspension of "Alvin J. Levenson, M.D." In response to the request, you submit to this office for review the information at issue. You state that "[p]ublic documents responsive to the request are being released to the requestor." You contend, however, that the submitted records, Exhibits C through O, are excepted from required public disclosure by sections 552.003, 552.101, and 552.111 of the Government Code. We have considered the exceptions and arguments you raise, and have reviewed the information at issue.

We first consider your assertion that the submitted records, Exhibits C through O, constitute records of the judiciary. The Texas Public Information Act, chapter 552 of the Government Code, governs the release of public information collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business by or for a governmental body. Gov't Code § 552.002. Section 552.003(1)(B) provides that the definition of "governmental body" for purposes of the Texas Public Information Act *does not* include the judiciary. Chapter 552 neither authorizes information held by the judiciary to be withheld nor requires it to be disclosed. Open Records Decision No. 25 (1974). Under the facts presented and considering the type of records at issue, we conclude that these records are not records of the judiciary as contemplated by section 552.003 of the Government Code. Therefore, since the records are subject to the Texas Public Information Act, we must consider the applicable claimed exceptions.

We next consider your assertion that Exhibit O is exempted from required public disclosure pursuant to section 552.101 of the Government Code. Section 552.101 of the Government Code exempts from disclosure information that is made confidential by law, including information made confidential by statute. Chapter 231 of the Family Code pertains to the administration of Title IV-D child support programs. Chapter 231 contains the following provisions:

Sec. 231.001. DESIGNATION OF TITLE IV-D AGENCY.

The office of the attorney general is designated as the state's Title IV-D agency.

...

Sec. 231.004. TITLE IV-D REGISTRY.

The Title IV-D agency shall establish a registry for Title IV-D cases that shall:

- (1) receive child support payments;
- (2) maintain a record of child support paid and any arrearages owed under each order;
- (3) distribute child support payments received as required by law; and
- (4) maintain custody of official child support payment records.

...

Sec. 231.108. CONFIDENTIALITY OF RECORDS AND PRIVILEGED COMMUNICATIONS

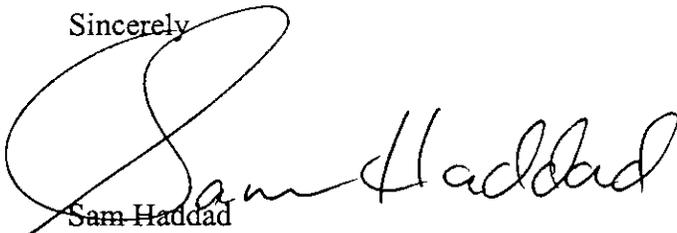
- (a) [A]ll files and records of services provided under this chapter, including information concerning a custodial parent, noncustodial parent, child, and an alleged or presumed father, are confidential.

In this instance, the requestor seeks information concerning an obligor's child support payments, information which is collected pursuant to the administration of Title IV-D child support programs under chapters 231 and 232 of the Family Code. Therefore, we conclude that the submitted child support information within Exhibit O is confidential under section 231.108 of the Family Code.

As for the remaining records, submitted as Exhibits C through N, you claim that the requested information is subject to section 552.111 of the Government Code. Section 552.111 excepts from disclosure inter-agency or intra-agency communications consisting of advice, recommendations, opinions, and other material reflecting the deliberative or policymaking processes of the governmental body.¹ See *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408 (Tex. App.--Austin 1992, no writ); Open Records Decision No. 615 at 5 (1993). Specifically, you contend that Exhibits C through N are excepted from required public disclosure pursuant to section 552.111 as *attorney work product*. The first requirement that must be met to consider information “attorney work product” is that the information must have been created for trial or in anticipation of litigation. The second requirement that must be met is that the work product “consists of or tends to reveal the thought processes of an attorney in the civil litigation process.” Open Records Decision No. 647 at 4 (1996). Based on your brief and the records at issue, we conclude that you have not met your burden of establishing that information submitted as Exhibits C through N constitute attorney work product. Therefore, the submitted information may not be withheld under the section 552.111 claim and should be released to the requestor.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely



Sam Haddad
Assistant Attorney General
Open Records Division

SH/eaf

Ref.: ID# 124698

Encl. Submitted documents

¹Section 552.111 does not protect facts and written observation of facts and events that are severable from advice, opinions, and recommendation. Open Records Decision No. 615.

cc: Ms. Jocelyn Lane
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