Before the Presiding Judges of the Administrative Judicial Regions

Per Curiam Rule 12 Decision

APPEAL NO.: 25-003

RESPONDENT: Administrative Office of the District Courts, Harris County

DATE: April 14, 2025

SPECIAL COMMITTEE: Judge Stephen B. Ables, Chairman; Judge Sid Harle; Judge Missy Medary; Judge Ben Woodward; Judge Alfonso Charles

On December 30, 2024, Petitioner sent a records request to the Harris County District Clerk for "all current drug testing policies and procedures implemented by the Harris County District Family Trial Courts under the Texas Public Information Act (Chapter 552 of the Texas Government Code)" and specifically (1) current drug testing protocols and procedures in Harris County family courts "from the years of 2000-2024," (2) documentation showing compliance with HHS, SAMHSA, and/or CLIA and CAP standards, and (3) any related administrative policies governing drug testing. The District Clerk sought clarity on the request, and on January 9, 2025, Petitioner stated it was "trying to get information on the family courts drug testing policies[,] as well as information on how to petition the Administrative Judge of the family court to investigate the issues." On January 13, 2025, the District Clerk directed Petitioner to the Respondent's office after informing Petitioner that it was not the correct source for the information sought, and that same day Petitioner contacted Respondent. It is not clear from the materials provided to the special committee whether Petitioner submitted to Respondent both the December 30 request for records and the slimmed down January 9 request for family drug court policies and investigation petition information, or simply the latter. Nonetheless, Respondent notified Petitioner that it would produce a formal response to Petitioner within two weeks. A few days later, on January 15, 2025 Petitioner sent a separate request to Respondent seeking "copies of all current drug testing policies and procedures implemented by the Harris County District Family Trial Courts" and, specifically, information on "current drug testing protocols and procedures that are and or [sic] have been used by Harris County Family Courts from the years 2000 – 2024." Before the tolling of the two-week reply window, Respondent informed Petitioner it would need a time extension to comply with the request, which it extended again. Finally, on February 2, Petitioner sent Respondent a request for an update on the investigation.

By email dated February 10, 2025, Respondent notified Petitioner by letter dated January 28, 2025 that, in response to its request for information on family court drug testing policies, there were no responsive documents. As for information on how to petition the Administrative Judge of the family court to investigate issues, the Respondent informed Petitioner that no such forms or documents existed. Moreover, Respondent wrote, this aspect of the request "is more in the form of a request for an answer to [a] question than a request for documents," and Rule 12 "does not require the judiciary or administration to create documents or respond to questions." Petitioner timely filed an appeal to which Respondent has not offered a reply.

This appeal revolves around variations of a records request altered over several weeks: a request dated December 30, reframed on January 9, redirected in some form on January 13, and reframed again on January 15. Based on Respondent's January 28 letter to Petitioner, it appears that Respondent answered Petitioner's slimmed down January 9 request as redirected on January 13, rather than the initial December 30 request or the January 15 request. For the January 9 request, Respondent wrote that it had no responsive records on family court drug testing policies and that no forms or documents existed in connection to petitioning the Administrative Judge to conduct an investigation. A records custodian is not required to create a document in response to a request. *See* Rule 12.4(a)(1) and Rule 12 Dec. Nos. 16-012, 18-001, and 24-001. Because Respondent has no responsive documents to produce for the January 9 request, Respondent has no further obligation regarding request and Petitioner's appeal on this request is denied.

What remains unclear to the special committee is to what extent, if any, Respondent received and resolved Petitioner's original December 30 request, which was later reframed on January 15. Although Petitioner has not clearly appealed a denial of access to records requested in the December 30 and January 15 requests, due to the overlapping nature of all of Petitioner's request, and because both these requests predate Respondent's January 28 letter denying the January 9 request, we direct Respondent, in light of Rule 12.1's policy to provide the public access to information in the judiciary, and in the interest of an efficient resolution of these parallel requests, to review the December 30 and January 15 requests and inform the special committee whether Respondent does or does not have records responsive to these requests. If Respondent confirms it has no records responsive to the December 30 and January 15 requests, this matter is dismissed. If there are responsive records, we direct Respondent to either disclose the records or advance reasons for withholding the records. We grant Respondent leave to provide an answer to the special committee, with a reply to be sent to the special committee no later than 14 days after the dating of this decision.