

Before the Presiding Judges of the Administrative Judicial Regions

Per Curiam Rule 12 Decision

APPEAL NO.: 19-007

RESPONDENT: City of Houston Municipal Courts

DATE: August 12, 2019

SPECIAL COMMITTEE: Judge Stephen B. Ables, Chairman; Judge Ray Wheless; Judge Olen Underwood; Judge Billy Ray Stubblefield; Judge Sid Harle

Petitioner requested from Respondent the total number of nighttime and daytime juvenile curfew citations issued over a four-year period disaggregated by age, race/ethnicity, and gender. Respondent informed Petitioner that it was prohibited from releasing the requested information because it is confidential under Texas Code of Criminal Procedure Art. 45.0217. Petitioner then appealed.

Respondent informed us that Rule 12 Decision No. 16-011 involved a substantially similar request made to Respondent and that it would comply with that decision in responding to Petitioner's request. The request at issue in Rule 12 Appeal No. 16-011 was for the total number of juvenile and minor cases by offense type disaggregated by age, race/ethnicity, gender, and whether the offense had occurred on a school campus. In that appeal, Respondent argued that the requested information was not subject to Rule 12 and that, in the alternative, it was confidential under Texas Code of Criminal Procedure Art. 45.0217. The special committee concluded that reports submitted to OCA by the Respondent regarding the total number of juvenile and minor cases by offense were subject to Rule 12 and should be released but that the remainder of the requested information consisted of case records that were not subject to Rule 12. We agree that Rule 12 Decision No. 16-011 involved a substantially similar request and conclude that it is dispositive of this appeal. Accordingly, we are without authority to grant the petition or sustain the denial of access to the requested records.¹

¹ We note, however, that though we find that these records are not "judicial records" within the meaning of Rule 12, they may be open pursuant to other law such as the common-law right to public access. *See* Rule 12 Decisions 00-001 and 00-003. We also note that the primary significance of a decision finding that a record is not subject to Rule 12 is that the Rule 12 procedures for responding to requests and appealing the denial of requests do not apply. Neither the fact that a record is not subject to Rule 12 nor a decision making this determination should be used as a basis for withholding records.