

Before the Presiding Judges of the Administrative Judicial Regions

Per Curiam Rule 12 Decision

APPEAL NO.: 17-024

RESPONDENT: Bexar County Community Supervision and Corrections Department

DATE: December 13, 2017

SPECIAL COMMITTEE: Judge Stephen B. Ables, Chairman; Judge Missy Medary; Judge Dean Rucker; Judge David L. Evans; Judge Kelly G. Moore

Petitioner requested ten categories of records from Respondent. Respondent denied Petitioner's request for records responsive to five of the categories and Petitioner filed this appeal. Since the filing of Petitioner's appeal, Respondent has provided Petitioner all records responsive to Petitioner's request other than "notices of proposed adverse action issued to employees since January 1, 2015, in which sleeping on duty was an allegation, and each decision to impose or not impose adverse action corresponding to each such notice." Respondent maintains that the responsive records are exempt from disclosure under Rule 12.5(k) and has provided copies of the withheld records for our *in camera* review.

Rule 12.5(k) exempts from disclosure "any record *relating to* an investigation of any person's character or conduct, unless: (1) the record is requested by the person being investigated; and (2) release of the record, in the judgment of the records custodian, would not impair the investigation." (Emphasis added.) "The United States Supreme Court and the Texas Supreme Court have determined that the ordinary meaning of 'relating to' is 'having a connection with or reference to' and that this is a broad term." *Graves v. Mack*, 246 S.W.3d 704, 709 (Tex. App. – Houston [14th Dist.] 2007, no pet.) (citations omitted). *See also* Rule 12 Decision No. 17-011. We have reviewed the submitted records and agree that they are exempt from disclosure under Rule 12.5(k).

In his request, Petitioner agreed to the redaction of the names of those who were investigated and asserts in this appeal that a records custodian can release those portions of a record that are not exempt. Respondent maintains that the responsive records would still be related to the investigation of a person's character or conduct even if names are redacted. Rule 12.5(k) makes the *record* related to an investigation exempt from disclosure. Therefore, withholding the entire record is appropriate under Rule 12.

The denial of access to the records at issue in this appeal is sustained.