OFFICE OF THE ATTORNEY GENERAL · STATE OF TEXAS
JOHN CORNYN

May 9, 2002

Mr. Curtis Hand
Director
McLennan County Community Supervision and Corrections Department
504 North 6th Street
Waco, Texas 76701

OR2002-2467

Dear Mr. Hand:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 162635.

The McLennan County Community Supervision and Corrections Department (the "department") received a request for information relating to six named probationers. You assert that the requested information is not subject to chapter 552 of the Government Code. We have considered your arguments and have reviewed the information you submitted.[1]

In Open Records Decision No. 646 (1996), this office determined that a community supervision and corrections department is a governmental body for purposes of chapter 552 of the Government Code and that its administrative records, such as personnel records and other records reflecting day-to-day management decisions, are subject to chapter 552. *Id.* at 5. We further concluded, however, that specific records held by a community supervision and corrections department regarding individuals on probation and subject to the direct supervision of a court are not subject to chapter 552 because such records are held on behalf of the judiciary. *Id; see also* Gov't Code § 552.003(1)(B) (definition of governmental body does not include judiciary).

[1] This letter ruling assumes that the submitted "sampling" of information is truly representative of the responsive information as a whole. This ruling neither reaches nor authorizes the department to withhold any responsive information that is substantially different from the submitted information. *See* Gov't Code § 552.301(e)(1)(D): Open Records Decision Nos. 499 at 6 (1988), 497 at 4 (1988).

You state that the submitted documents relate to probationers that your department supervises. Based on your representation and our review of the submitted information, we conclude that this information consists of records of individuals on probation that are maintained by the department on behalf of the judiciary. Therefore, the submitted information is not subject to chapter 552 of the Government Code and need not be released.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

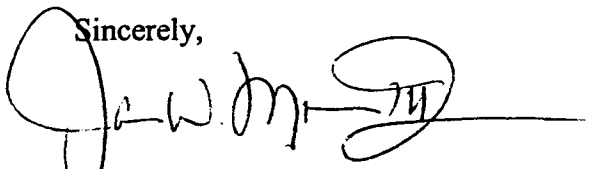
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/sdk

Ref: ID# 162635

Enc: Submitted documents

c: Ms. Jessica Willey
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(w/o enclosures)