



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 9, 2006

Mr. Stephen L. Enders
Director
West Texas Community Supervision & Corrections Department
800 East Overland, Suite 100
El Paso, Texas 79901

OR2006-02403

Dear Mr. Enders:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 243824.

The West Texas Community Supervision and Corrections Department (the "department") received a request for information relating to personal recognizance bonds the department has prepared under article 17.42, sections 5 and 6 of the Texas Code of Criminal Procedure from 2002 through 2005. You claim that the information at issue is not subject to disclosure under the Act. We have considered your argument and reviewed the submitted representative sample of information.¹

You assert that the submitted information is not subject to the Act. In Open Records Decision No. 646 (1996), this office determined that a community supervision and corrections department is a governmental body for purposes of the Act and that its administrative records, such as personnel records and other records reflecting day-to-day management decisions, are subject to the Act. *Id.* at 5. We further concluded, however, that specific records held by a community supervision and corrections department regarding

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

individuals on probation and subject to the direct supervision of a court are not subject to the Act because such records are held on behalf of the judiciary. *Id.*; see Gov't Code § 552.003(1)(B) (definition of governmental body does not include judiciary).

Upon review, you have failed to demonstrate that the submitted monthly report was collected, assembled, or maintained by or for the judiciary. Furthermore, we find that the information at issue does not pertain to specific individuals on probation and subject to the direct supervision of a court. We therefore conclude that this information is subject to the Act and must be released unless it comes within an exception to disclosure. As you raise no further exceptions to disclosure, the requested information must be released to the requestor.

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, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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).

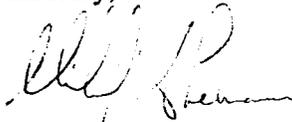
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

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 Office of the Attorney General 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. 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,

A handwritten signature in black ink, appearing to read "Michael A. Lehmann". The signature is written in a cursive style with a large initial "M".

Michael A. Lehmann
Assistant Attorney General
Open Records Division

MAL/krl

Ref: ID# 243824

Enc. Submitted documents

c: Mr. Pascual Q. Olibas
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(w/o enclosures)