



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 30, 2008

Ms. Lynne Wilkerson
General Counsel
Bexar County Juvenile Probation Department
235 East Mitchell Street
San Antonio, Texas 78210-3845

OR2008-05844

Dear Ms. Wilkerson:

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# 308885.

The Bexar County Juvenile Probation Department (the "department") received two requests from the same requestor for records concerning the requestor's children.¹ You claim that the requested information is not subject to the Act, and alternatively, that it is excepted from disclosure under section 552.101 of the Government Code. We have considered your arguments and reviewed the submitted information.

The Act generally requires the disclosure of information maintained by a "governmental body." *See* Gov't Code § 552.021. While the Act's definition of a "governmental body" is broad, it specifically excludes "the judiciary." *See* Gov't Code § 552.003(1) (A), (B). 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. On the other hand, we also ruled that specific records regarding individuals on probation and subject to the direct supervision of

¹We note that the department sought clarification of the information requested. *See* Gov't Code § 552.222 (if request for information is unclear, governmental body may ask requestor to clarify request).

a court that are held by a community supervision and corrections department are not subject to the Act because such records are held on behalf of the judiciary. *Id.*; see Gov't Code § 552.003.

You assert the requested records are not subject to disclosure under the Act because the 289th District Court “has the ultimate direction and control over the supervision and rehabilitation of these juvenile probationers” and that the records at issue are maintained on behalf of this court. In this instance, we agree that the submitted records are held by the department on behalf of the judiciary and, therefore, are not subject to disclosure under the Act. See ORD 646 at 2-3; *Benavides v. Lee*, 665 S.W.2d 151 (Tex. App.—San Antonio 1983, no writ) (in determining whether governmental entity falls within judiciary exception, this office looks to whether governmental entity maintains relevant records as agent of judiciary with regard to judicial, as opposed to administrative, functions). As our ruling is dispositive for this information, we do not address your arguments against disclosure.

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 file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, 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 challenge 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,



Allan D. Meesey
Assistant Attorney General
Open Records Division

ADM/eeg

Ref: ID# 308885

Enc. Submitted documents

c: Ms. Tracy Mitchell
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(w/o enclosures)