



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 4, 2010

Ms. Sue Koriath
Assistant Criminal District Attorney
Kaufman County Criminal District Attorney's Office
100 West Mulberry Street
Kaufman, Texas 75142

OR2010-01762

Dear Ms. Koriath:

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# 373949.

The Kaufman County Adult Probation Department (the "department") received a request for a named individual's most recent probationer monthly report. You contend that the requested information is not subject to disclosure under the Act. We have considered your arguments and reviewed the information you submitted.

The Act generally requires the disclosure of information maintained by a "governmental body." See Gov't Code § 552.021. Although the Act's definition of a "governmental body" is broad, it specifically excludes "the judiciary." See *id.* § 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 the 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 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.*

You contend that the submitted information is held by the department as an agent of the judiciary. You inform us that the information at issue is related to an individual who was

sentenced to two years of deferred adjudication and remains on probation. You explain that the court is responsible for the conditions of the individual's probation and supervision of his progress. You state that probation officers update the court on the individual's behavior and act according to the court's direction. Based on your representations, we find that the information at issue is maintained by the department on behalf of the judiciary. *See* ORD 646 at 2-3; *see also Benavides v. Lee*, 665 S.W.2d 151 (Tex. App.—San Antonio 1983, no writ) (in determining whether governmental entity falls within judiciary exception, attorney general looks to whether governmental entity maintains relevant records as agent of judiciary with regard to judicial, as opposed to administrative, functions). We therefore conclude that the submitted information is not subject to the Act and need not be released to the requestor.

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Laura Ream Lemus
Assistant Attorney General
Open Records Division

LRL/jb

Ref: ID# 373949

Enc. Submitted documents

c: Requestor
(w/o enclosures)