



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 25, 2016

Mr. Matthew L. Grove
Assistant County Attorney
Fort Bend County
401 Jackson Street, Third Floor
Richmond, Texas 77469

OR2016-11920

Dear Mr. Grove:

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# 611750.

The Fort Bend County Juvenile Probation Department (the "department") received a request for the personnel file of a named individual and information regarding any investigation pertaining to the named individual, including information regarding the named individual's termination of employment and any policy the named individual violated. You claim the submitted information is not subject to the Act. Alternatively, you claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. You also state you have notified the Texas Department of Family and Protective Services ("DFPS") of the request and of its right to submit arguments to this office as to why the requested information should not be released. *See* Gov't Code § 552.304 (interested third party may submit comments stating why information should or should not be released). We have received comments from DFPS. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note you have only submitted e-mail correspondence. To the extent information responsive to the remainder of the request existed on the date the department received the request, we assume you have released it. *See* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible). If you have not released any such information, you must do so at this time. *See* Gov't Code §§ 552.301(a), .302.

The Act is applicable to information that is "written, produced, collected, assembled, or maintained . . . in connection with the transaction of official business . . . by a governmental body[.]" *Id.* § 552.002(a)(1). However, the Act's definition of "governmental body" "does

not include the judiciary.” *Id.* § 552.003(1)(B). In Open Records Decision No. 646 (1996), this office determined a community supervision and corrections department is a governmental body for purposes of the Act, and its administrative records, such as personnel files and other records reflecting the day-to-day management of the department, are subject to the Act. ORD 646 at 5; *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, this office looks to whether governmental entity maintains relevant records as agent of judiciary with regard to judicial, as opposed to administrative, functions). In contrast, specific records held by a community supervision and corrections department concerning individuals who are on probation and subject to the direct supervision of a court are not subject to the Act, as such records are held on behalf of the judiciary. ORD 646 at 5.

You have informed this office the submitted documents are records concerning a juvenile probationer maintained by the department on behalf of the judiciary. We note that records held by the department that pertain to juveniles subject to the direct supervision of the court are judicial records. *See id.* at 2-3; *Benavides*, 665 S.W.2d at 151. Based on your representation and our review, we find the submitted information is held by the department on behalf of the judiciary and, therefore, is not subject to disclosure under the Act. Our ruling does not address the public availability of this information, and the department need not release it in response to this request.¹

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Britni Ramirez
Assistant Attorney General
Open Records Division

BR/dls

¹As our ruling is dispositive, we need not consider the remaining arguments against disclosure.

Ref: ID# 611750

Enc. Submitted documents

c: Requestor
(w/o enclosures)