



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

March 26, 1996

Ms. Tamara A. Armstrong  
Assistant County Attorney  
Travis County  
P.O. Box 1748  
Austin, Texas 78767

OR96-0400

Dear Ms. Armstrong:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 38696.

The Travis County Community Supervision and Corrections Department (the "department") received a request for information relating to the person selected to fill the position of probation officer and of the person directly responsible for hiring the successful applicants. You claim that the requested information is excepted from disclosure because the department is part of the judiciary and the judiciary is expressly excluded from the provisions of Chapter 552 of the Government Code. We have considered the exception you claimed and have reviewed the documents at issue.

Section 552.003 of the Government Code provides that for purposes of the Open Records Act, the term "governmental body" does not include the judiciary. The purposes and limits of the judiciary exception were construed in *Benavides v. Lee*, 665 S.W.2d 151 (Tex. App.--San Antonio 1983, no writ). The court held that the Webb County Juvenile Board was not part of the judiciary for purposes of the act, despite the fact that the board consisted of members of the judiciary and the county judge. In *Benavides v. Lee*, the court explained the purpose of the judiciary exception:

The judiciary exception... is important to safeguard judicial proceedings and maintain the independence of the judicial branch of government, preserving statutory and case law already governing

access to judicial records. But it must not be extended to every governmental entity having any connection with the judiciary.

*Id.* at 152. Thus, to fall within the judiciary exception, the document must contain information that pertains to judicial proceedings. See Open Records Decision Nos. 527 (1989) (Court Reporters Certification Board not part of judiciary because its records do not pertain to judicial proceedings), 204 (1978) (information held by county judge that does not pertain to proceedings before county court subject to Open Records Act). The records submitted to this office for review relate to applicants and employees of the department. This information does not pertain to judicial proceedings. Therefore, we conclude that the documents submitted to this office for review are not records of the judiciary and are subject to the Open Records Act.

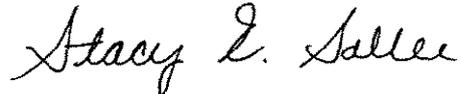
We note that some of the information in the submitted documents may be excepted from disclosure by section 552.117 of the Government Code. Section 552.117 excepts from disclosure information that relates to the home address, home telephone number, social security number of, or information that reveals whether a current or former employee of a governmental body or a peace officer has family members. This provision applies to those governmental employees who had elected for such information to be confidential under section 552.024 of the Government Code prior to the receipt of the request for information. We note that this information is automatically confidential for peace officers. Therefore, for peace officers and those current or former employees who had elected to keep this information confidential at the time the department received the request for information, the department must withhold the information protected by section 552.117.

Even if an employee did not elect to have his or her social security number protected from disclosure, federal law may prohibit disclosure of these applicants' and employees' social security numbers. A social security number is excepted from required public disclosure under section 552.101 of the act in conjunction with the 1990 amendments to the federal Social Security Act, 42 U.S.C. § 405(c)(2)(C)(viii)(I), if it was obtained or is maintained by a governmental body pursuant to any provision of law enacted on or after October 1, 1990. See Open Records Decision No. 622 (1994). Based on the information you have provided, we are unable to determine whether the social security numbers are confidential under this federal statute. We note, however, that section 552.352 of the Open Records Act imposes criminal penalties for the release of confidential information. The department may not withhold the remainder of the requested information.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous

determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Stacy E. Sallee  
Assistant Attorney General  
Open Records Division

SES/ch

Ref.: ID# 38696

Enclosures: Submitted documents

cc: Ms. Vanessa Earl  
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(w/o enclosures)