ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 13, 2004

Ms. Julie Joe
Assistant County Attorney
Travis County
P.O. Box 1748
Austin, Texas 78767

OR2004-6873

Dear Ms. Joe:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 207346.

The Travis County Community Supervision and Corrections Department ("CSCD") received a request for copies of 1996 payments of fees as well as copies of all caseworker notes pertaining to the supervision of the requestor. You indicate that CSCD is releasing some payment information to the requestor. You argue that the submitted information is not subject to disclosure under the Public Information Act (the "Act"). We have considered your arguments and reviewed the submitted representative sample of information.[1]

Section 552.003 of the Government Code provides that for purposes of the 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:

[1] We 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.

> 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 Public Information Act). You inform us that the submitted information regarding the requestor's probation is maintained by CSCD on behalf of the judiciary. Further, you state that the requestor was under the direct supervision of the courts. Therefore, we conclude that the information submitted to this office for review is a record of the judiciary and is therefore not subject to the Public Information Act.

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).

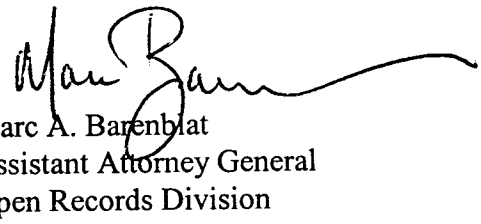
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, 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 Texas Building and Procurement Commission 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. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. 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,



Marc A. Barenblat
Assistant Attorney General
Open Records Division

MAB/jh

Ref: ID# 207346

Enc. Submitted documents

c: Ms. Mary Nix
3553-B Lake Austin Boulevard
Austin, Texas 78703
(w/o enclosures)