



**ATTORNEY GENERAL OF TEXAS**  
**GREG ABBOTT**

October 8, 2004

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

OR2004-8543

Dear Ms. Joe:

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# 210835.

The Pretrial Services Office (the "pretrial services office") of the Travis County Community Supervision and Corrections Department (the "department") received a request for (1) documents regarding policies or conditions of qualification for personal recognizance bonds, (2) documents concerning personal recognizance release requirements or conditions of release, and (3) statistical information maintained by Travis County regarding the total dollar amount and specific number of bond forfeitures of individuals released on personal recognizance bonds as of the last audit of the pretrial services office. You state that some of the requested information has been released. You claim, however, that some of the information at issue is not subject to the Act. In the alternative, you claim that this information is excepted from disclosure under section 552.101 of the Government Code. We have considered your arguments and reviewed the submitted representative sample of information.<sup>1</sup>

First, you assert that the submitted information is not subject to the Act. We understand that the pretrial services office is part of the department. In Open Records Decision No. 646

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<sup>1</sup>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.

(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. 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.*; see Gov't Code § 552.003(1)(B) (definition of governmental body does not include judiciary). You argue that the requested information pertains "to the operational functions of Pretrial Services – functions that Pretrial Services performs on behalf of the judiciary as an arm of the judiciary." However, after review of your arguments and the information at issue, we find that the information does not pertain to individuals on probation and subject to the direct supervision of a court, but instead relates solely to the administration of the department. We therefore conclude that this information is subject to the Act and must be released unless it comes within an exception to disclosure.

You assert the information at issue is excepted from release under section 552.101 of the Government Code. Section 552.101 encompasses common law privacy, which protects information if (1) the information contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). Information may be withheld under section 552.101 in conjunction with common law privacy upon a showing of certain "special circumstances." See Open Records Decision No. 169 (1977). This office considers "special circumstances" to refer to a very narrow set of situations in which the release of information would likely cause someone to face "an imminent threat of physical danger." *Id.* at 6. Such "special circumstances" do not include "a generalized and speculative fear of harassment or retribution." *Id.* You assert that release of the information would possibly allow an individual to circumvent or sabotage investigations conducted by the pretrial services office; however, you have not demonstrated that release of the information would likely cause someone to face an imminent threat of physical danger. Therefore, after review of your arguments, we conclude you have not demonstrated the existence of special circumstances that would make any of the submitted information confidential. Accordingly, the information may not be withheld under section 552.101 on the basis of special circumstances. Therefore, you must release it to the requestor.

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,

  
James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/seg

Ref: ID# 210835

Enc. Submitted documents

c: Mr. Rick Ojeda  
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(w/o enclosures)