



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 28, 2010

Ms. Cari Lambrecht
Public Information Officer
Hidalgo County
2818 South Business Highway 281
Edinburg, Texas 78539

OR2010-14768

Dear Ms. Lambrecht:

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# 395599.

The Hidalgo County Juvenile Probation Department (the "department") received a request for all information in the department's custody pertaining to two named individuals. You state the department has no information pertaining to one of the named individuals.¹ You claim the requested information is excepted from disclosure under sections 552.101, 552.103, and 552.114 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.²

We note the Act generally requires the disclosure of information maintained by a "governmental body." See Gov't Code § 552.021. The Act's definition of a "governmental body" specifically excludes "the judiciary." See *id.* § 552.003(1) (A), (B). In Open Records

¹The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. See *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983).

²We 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.

Decision No. 646 (1996); this office determined that specific records regarding individuals on probation and subject to the direct supervision of a court that are held by a community supervision and corrections department are not subject to the Act because such records are held on behalf of the judiciary. Open Records Decision No. 646 at 4 (1996); *see* Open Records Decision No. 236 at 2-3 (1980).

In this instance, we find the submitted documents constitute records of a former probationer of the department. Therefore, we find these records are held by the department on behalf of the judiciary and are not subject to disclosure under the Act. *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, this office looks to whether governmental entity maintains relevant records as agent of judiciary with regard to judicial, as opposed to administrative, functions). As our ruling is dispositive, we need not address your arguments against disclosure of these records.

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,



Sarah Casterline
Assistant Attorney General
Open Records Division

SEC/em

Ref: ID# 395599

Enc. Submitted documents

c: Requestor
(w/o enclosures)