



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 3, 2014

Mr. Robert C. Thomas
Director
Guadalupe County Community Supervision and Corrections Department
209 East Donegan Street
Seguin, Texas 78155

OR2014-00222

Dear Mr. Thomas:

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# 509854.

The Guadalupe County Community Supervision and Corrections Department (the "department") received a request for the pre-sentence investigation report related to a case involving the requestor. You claim the requested information is not subject to the Act. Alternatively, you claim the information at issue is excepted from disclosure under section 552.101 of the Government Code.¹ We have considered your arguments and reviewed the submitted information.

You assert the requested information is not subject to the Act because it is a judicial record. The Act is applicable only to "public information." *See* Gov't Code § 552.021. Section 552.002(a) of the Government Code defines "public information" as follows:

[I]nformation that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

¹Although you do not raise section 552.101 of the Government Code in your brief, we understand you to raise this exception based on the substance of your argument.

- (1) by a governmental body;
- (2) for a governmental body and the governmental body:
 - (A) owns the information;
 - (B) has a right of access to the information; or
 - (C) spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information; or
- (3) by an individual officer or employee of a governmental body in the officer's or employee's official capacity and the information pertains to official business of the governmental body.

Id. § 552.002(a). However, section 552.003 provides that, for purposes of the Act, the term “governmental body” does not include the judiciary. *Id.* § 552.003(1)(B). Information that is “collected, assembled, or maintained by or for the judiciary is governed by rules adopted by the Supreme Court of Texas or by other applicable laws and rules” and is not subject to the Act. *See id.* § 552.0035(a); *cf.* Open Records Decision No. 131 (1976) (applying statutory predecessor to judiciary exclusion under section 552.003(1)(B) prior to enactment of section 552.0035).

In determining whether information held by a governmental body falls within the judiciary exception to the Act, this office looks to whether the governmental body maintains the relevant records as an agent of the judiciary in a judicial, as opposed to an administrative, capacity. *See* Open Records Decision No. 646 at 3-4 (1996). This office has 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 day-to-day management of the department, are subject to the Act. *Id.* at 5. In contrast, specific records held by a community supervision and corrections department that concern individuals who are 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.*

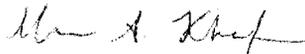
You state the department conducted the pre-sentence investigation at issue by order of the court and the department maintains the report on behalf of the judiciary. Thus, we find the pre-sentence investigation report is a judicial record maintained by the department as an agent of the judiciary. Accordingly, we conclude the requested information is not subject to the Act and need not be released in response to this request for information.²

²As our ruling is dispositive, we need not address your remaining argument against disclosure.

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,



Miriam A. Khalifa
Assistant Attorney General
Open Records Division

MAK/akg

Ref: ID# 509854

Enc. Submitted documents

c: Requestor
(w/o enclosures)