



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 27, 2014

Ms. Catherine Torres-Stahl
General Counsel
Bexar County Community Supervision and Corrections Department
207 North Comal
San Antonio, Texas 78207

OR2014-11071

Dear Ms. Torres-Stahl:

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# 527264.

The Bexar County Community Supervision and Corrections Department (the “department”) received a request for 1) the names and classifications of the individuals who conducted a specified investigation; 2) the aforementioned individuals’ affiliation with a named individual and the Steel Workers Union; and 3) all documentation and evidence used in the recommendation to terminate a named individual. You state the department released some of the requested information. You state the department does not possess information responsive to category 2.¹ You claim the submitted information is not subject to the Act. In the alternative, you claim the submitted information is excepted from disclosure under sections 552.101 and 552.103 of the Government Code. We have considered your arguments and reviewed the representative sample of submitted information.²

The Act is applicable to information that is “written, produced, collected, assembled, or maintained . . . in connection with the transaction of official business . . . by a governmental

¹The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

²We assume 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.

body[.]” Gov’t Code § 552.002(a)(1). However, the Act’s definition of “governmental body” “does not include the judiciary.” *Id.* § 552.003(1)(B). In Open Records Decision No. 646 (1996), this office 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 the day-to-day management of the department, are subject to the Act. ORD 646 at 5; *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). In contrast, specific records held by a community supervision and corrections department concerning individuals who are on probation and subject to the direct supervision of a court are not subject to the Act, as such records are held on behalf of the judiciary. ORD 646 at 5.

You state the submitted information is used as evaluations and appraisals of an employee’s case management and supervisory duties. Upon review, we find the submitted information consists of administrative records of the department and, thus, is subject to the Act. Accordingly, we will consider your claimed exceptions for the submitted information.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. This exception encompasses information that other statutes make confidential. Section 76.006(g) of the Government Code provides that “[a] document evaluating the performance of an officer of the department who supervises defendants placed on community supervision is confidential.” *Id.* § 76.006(g). The term “department” in this section “means a community supervision and corrections department established under [chapter 76 of the Government Code].” *Id.* § 76.001(4). You claim the submitted information evaluates the performance of an officer of the department who supervises defendants placed on community supervision. Upon review, we conclude the department must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 76.006(g) of the Government Code.³

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

³As our ruling is dispositive, we need not address your remaining argument against disclosure.

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink that reads "Megan G. Holloway". The signature is written in a cursive style with a large, looping initial "M".

Megan G. Holloway
Assistant Attorney General
Open Records Division

MGH/akg

Ref: ID# 527264

Enc. Submitted documents

c: Requestor
(w/o enclosures)