



**THE ATTORNEY GENERAL  
OF TEXAS**

**JIM MATTOX  
ATTORNEY GENERAL**

July 14, 1989

Mr. Daniel W. Kossmann  
Assistant District Attorney  
Civil Division  
Denton County, Texas  
P. O. Box 2344  
Denton, Texas 76201-2899

Dear Mr. Kossmann:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 6767; this decision is OR89-204.

Under the Open Records Act, all information held by governmental bodies is open unless the information falls within one of the act's specific exceptions to disclosure. The act places on the custodian of records the burden of proving that records are excepted from public disclosure. If a governmental body fails to claim an exception, the exception is ordinarily waived unless the information is deemed confidential under the act. See Attorney General Opinion JM-672 (1987). The act does not require this office to raise and consider exceptions that you have not raised.

The Denton County Sheriff's Office received an open records request for all weekly surety reports submitted to the sheriff by bail bondsmen in Denton County. The surety reports are submitted voluntarily to help the Sheriff's Office ascertain the bonding companies' bonding authority. The reports contain the name of the defendant, cause number and court, the amount of the bond, and the bonding power of the bonding companies. You ask whether these reports are public information. You submitted copies of the reports in question, but failed to include a copy of the requestor's letter to you. In the future, please enclose a copy of the requestor's letter with all requests for decisions.

You raise none of the act's specific exceptions to required public disclosure. You have therefore waived the

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right to withhold any of the information contained in the reports except for any information deemed confidential by law. Although the attorney general will not ordinarily raise an exception that might apply but that the governmental body has failed to claim, see Open Records Decision No. 455 (1987), we will raise section 3(a)(1) because the release of confidential information could impair the rights of third parties and because its improper release constitutes a misdemeanor. See V.T.C.S. art. 6252-17a, §§ 10(a), 10(e). Section 3(a)(1) of the act protects "information deemed confidential by law, either Constitutional, statutory, or by judicial decision."

None of the information at issue here comes under the protection of section 3(a)(1). The type of information in the reports pertaining to criminal defendants was expressly deemed public in Houston Chronicle Publishing Co. v. City of Houston, 531 S.W.2d 177 (Tex. Civ. App. - Houston [14th Dist.] 1975), writ ref'd n.r.e. per curiam, 536 S.W.2d 559 (Tex. 1976). The remaining information revealing the bonding power of the bonding companies is similar to that held to be public in Apodaca v. Montes, 606 S.W.2d 734 (Tex. Civ. App. - El Paso 1980, no writ) (personal financial records filed with the county bail board in connection with application for license to act as bondsman not protected by subsections 3(a)(1) or 3(a)(10) of Open Records Act). You must, therefore, release the surety reports.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR89-204.

Yours very truly,  
*Open Government Section*  
*of the Opinion Committee* 

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of the Opinion Committee  
Approved by David A. Newton  
Assistant Attorney General

DAN/RWP/bc

Ref.: ID# 6767