



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 27, 1998

Mr. Otto D. Hewitt, III
Hewitt Law Firm
1600 East Highway 6, Suite 302
Alvin, Texas 77511

OR98-0262

Dear Mr. Hewitt:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your requests were assigned ID#'s 112558 and 112559.

The Brazoria County Sheriff's Department (the "department"), which you represent, received requests for the personnel files and disciplinary reports for certain current and former employees of the department and Capital Correctional Resources, Inc. ("CCRI"), as well as the employment applications for all current and former CCRI employees. You assert that the information is excepted from disclosure pursuant to sections 552.102, 552.108, 552.111, and 552.117 of the Government Code.

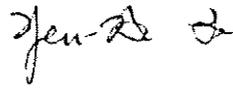
Pursuant to section 552.301(b), a governmental body is required to submit to this office (1) general written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, and (3) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. You did not, however, submit to this office copies or representative samples of the specific information that was requested.

Pursuant to section 552.303(c) of the Government Code, this office notified you by facsimile letter dated December 9, 1997, that you had failed to submit the information required by section 552.301(b). We requested that you provide this information to our office within seven days from the date of receiving the notice. In addition, by letter dated December 16, 1997, we extended the submission deadline to December 31, 1997. The notices further stated that under section 552.303(e) failure to comply would result in the legal presumption that the information at issue is public information.

You did not provide our office with the information that was requested. Therefore, as provided by section 552.303(e), the information that is the subject of this request for information is presumed to be public information. Information that is presumed public must be released unless a governmental body demonstrates a compelling interest to withhold the information to overcome this presumption. *See Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.--Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to Gov't Code § 552.302); Open Records Decision No. 319 (1982). In the absence of a demonstration that the information is confidential by law or that other compelling reasons exist as to why the information should not be made public, you must release the information. Open Records Decision No. 195 (1978).¹

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/rho

Ref.: ID#'s 112558 and 112559

cc: Mr. Jason Spencer
Reporter
The Facts
P.O. Box 549
Clute, Texas 77531

¹We caution that the distribution of confidential information is a criminal offense. Gov't Code § 552.352. *See* Gov't Code §§ 552.024, .117 (the home address, phone number, social security number and family information of a current or former public official or employee may be confidential).