



April 25, 2000

Ms. Angie King
Records
Office of the Sheriff Nacogdoches County
2306 Douglass Highway
Nacogdoches, Texas 75961

OR2000-1609

Dear Ms. King:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 135833.

The Nacogdoches County Sheriff received a request for the requestor's "jail record." You raise no exceptions to disclosure and ask only whether the requested information may be released. You have submitted representative samples of the responsive information.¹

We note initially that your request for the decision of this office appears to be untimely. The Public Information Act imposes a duty on governmental bodies seeking an open records decision pursuant to section 552.301 to submit that request to the attorney general and assert applicable exceptions to disclosure within ten business days after the governmental body's receipt of the request for information. The time limitation found in section 552.301 is an express legislative recognition of the importance of having public information produced in a timely fashion. *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.--Austin 1990, no writ). When a request for an open records decision is not made within the time period prescribed by section 552.301, the requested information is presumed to be public. See Gov't Code § 552.302. This presumption of openness can only be overcome by a compelling demonstration that the information should not be made public. See, e.g., Open

¹In reaching our conclusion, we 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 No. 499 (1988), 497 (1988) (where requested documents are numerous and repetitive, governmental body should submit representative sample; but if each record contains substantially different information, all must be submitted). 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 those submitted to this office.

Records Decision No. 150 (1977) (presumption of openness overcome by a showing that the information is made confidential by another source of law or affects third party interests).

The request is dated March 10, 2000. Your request for this office's decision is postmarked March, 28, 2000. *See* Gov't Code 552.308 (timeliness of action by mail; postmark). The requested information is therefore presumed public and may be withheld only if it is shown that it is confidential by law or implicates third party interests.

Some of the submitted information is, or may be, confidential for purposes of release to the *public*. Section 552.130 of the Government Code requires withholding driver's license numbers from release to the public. Also, for purposes of public release, social security numbers that were obtained or maintained by a governmental body pursuant to any provision of law, enacted on or after October 1, 1990, are confidential pursuant to section 405(c)(2)(C)(viii) of title 42 of the United States Code. However, the requestor here has a right of access to such information which pertains to him under section 552.023 of the Government Code, which prohibits the withholding of information from an individual based only on laws intended to protect such individual's privacy interests. Having reviewed the submitted information, it does not appear to us that any of such information may be withheld from the requestor here. Therefore, we find no basis, from the records you have submitted, for withholding the requested information from the requestor. You must release such information.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

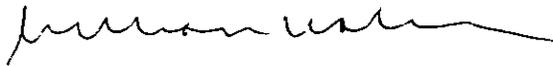
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one

of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely



William Walker
Assistant Attorney General
Open Records Division

WMW/ljp

Ref: ID#135833

Encl. Submitted documents

cc: Mr. Matthew Thomas 762633
P.O. Box 4500
Tenn Colony, Texas 75886
(w/o enclosures)