



August 9, 2000

Lt. Nora Maxey
Williamson County Sheriff's Department
508 South Rock Street
Georgetown, Texas 78626

OR2000-3025

Dear Lt. Maxey:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 138934.

The Williamson County Sheriff's Department (the "department") received a request for information regarding complaints and investigations involving a named individual.

Section 552.301 of the Government Code dictates the procedure that a governmental body must follow if it wishes to ask the attorney general for a decision determining whether requested information falls within an exception to disclosure. Section 552.301(b) requires the governmental body to "ask for the attorney general's decision and state the exceptions that apply no later than the 10th business day after the date of receiving the written request." Additionally, pursuant to section 552.301(e), a governmental body is required to submit to this office within fifteen business days of receiving an open records request (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, (3) a signed statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. Gov't Code § 552.301(e).

You do not indicate the date on which the department received the request for information. The request is dated June 30, 2000. Assuming the request was received on that date, the department was required to submit to this office its request for a decision and state the exceptions to disclosure which apply no later than July 17, 2000, the tenth business day from

the date the department received the request for information.¹ While you timely submitted a request for a decision, you did not raise any exceptions to the required public disclosure of the requested information. The department was additionally required to submit the information described by section 552.301(e) no later than July 24, 2000, the fifteenth day from the date the department received the request for information. As of this date, we have received from your office only a copy of the request for information.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to timely submit to this office a proper request for a decision and the information required in section 552.301(e) results in the legal presumption that the information is public and must be released. Gov't Code § 552.302. Information that is presumed public must be released unless a governmental body demonstrates a compelling reason 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). You have not shown such a compelling interest to overcome the presumption that the information at issue is public. Accordingly, you must release the requested information. We caution, however, that section 552.353 of the Public Information Act imposes criminal penalties for the release of confidential 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

¹In calculating the deadline for making the required submissions to this office, we assume that the department's offices were closed on July 4th in observance of the national holiday.

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,



Carla Gay Dickson
Assistant Attorney General
Open Records Division

CGD/ljp

Ref: ID# 138934

cc: Ms. Mary Helton
11301 Cezanne Street
Austin, Texas 78726
(w/o enclosures)