



August 16, 2000

Ms. Tenley A. Aldredge
Assistant County Attorney
County of Travis
P.O. Box 1748
Austin, Texas 78767

OR2000-3119

Dear Ms. Aldredge:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 138075.

Travis County (the "county") received a request for information related to testing of the requestor by the Travis County Substance Abuse Counseling and Assessment Division ("SACA"). You relate that the county has released the responsive documents that were signed by the requestor in the assessment process. The county acknowledges that the request was received by SACA on April 26, 2000, and that the county did not request the opinion of this office within the ten business day period required by Government Code 552.301. The information is therefore presumed public and must be released unless a compelling reason for withholding the information is demonstrated. Gov't Code 552.302. The presumption arising with the 10-day rule can be overcome only by a compelling demonstration that the information should not be released, e.g., where it is made confidential by other law, or where third party interests are at issue. Open Record Decision No. 150 (1977).

Here, the county asserts that the interests of County judges, the public served by those judges, and the Travis County Attorney's Office are implicated by the release of the responsive information. However, the county has not asserted that an affected third party has requested that the information should be withheld. Nor has the county asserted an exception to disclosure that it claims applies to the responsive information, on behalf of a third party. The county raises Open Records Decisions Nos. 586 (1991) and 630 (1994) in support of the proposition that an exception which protects the interests of a third party can be asserted on behalf of that third party where the governmental body fails to make a timely request for an attorney general opinion. That proposition is correct, however it does not obviate the requirement that an exception must be raised. In this case no exception to disclosure has

been raised, and no third party has asserted that the information should be withheld. We conclude that you have not demonstrated a compelling reason to withhold the requested information and it must therefore be released to this requestor.¹

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).

¹We note that the requestor is seeking information about himself and therefore nothing can be withheld based solely on the privacy rights of the requestor. Gov't Code § 552.023. However, if you receive another request for this information from a different requestor you should submit a new request for decision to this office regarding the subsequent request for information.

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,

A handwritten signature in black ink, appearing to read "Michael Jay Burns". The signature is fluid and cursive, with a horizontal line extending to the right.

Michael Jay Burns
Assistant Attorney General
Open Records Division

MJB/er

Ref: ID# 138075

Encl Submitted documents

cc: Mr. Clarence McChristian
9711 Parkfield
Austin, Texas 78758
(w/o enclosures)