



JOHN CORNYN

November 2, 2000

Mr. J. Keith Gary
Grayson County
200 South Crockett Street
Sherman, Texas 75090

OR2000-4286

Dear Sheriff Gary:

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# 140872.

The Grayson County Sheriff's Office (the "sheriff's office") received a request for information relating to companies and individuals authorized to write bail bonds in Grayson County. You claim that the requested information is excepted from disclosure under section 552.110 of the Government Code. We have considered the exception you claim.

Initially, we note that you claim that having to notify all companies, attorneys, and individuals who write bail bonds or have submitted financial information to the sheriff's office of this request "would create an undue burden and hardship" on your office. However, regardless of any alleged burden, pursuant to section 552.305 of the Government Code, you are required to make a good faith attempt to notify third parties when a request for information is received which may implicate the third-party's proprietary interest. Gov't Code § 552.305(d). *See also* Open Records Decision No. 542 (1990) (determining that statutory predecessor to Gov't Code § 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in Public Information Act in certain circumstances). The notice to the third party must:

- (1) be in writing and sent within a reasonable time not later than the 10th business day after the date the governmental body receives the request for the information; and
- (2) include:
 - (A) a copy of the written request for information, if any, received by the governmental body; and

(B) a statement, in the form prescribed by the attorney general, that the person is entitled to submit in writing to the attorney general within a reasonable time not later than the 10th business day after the date the person receives the notice:

(i) each reason the person has as to why the information should be withheld; and

(ii) a letter, memorandum, or brief in support of that reason.

Gov't Code § 552.305(d). You may obtain a copy of the notice form by accessing the Attorney General's web site at www.oag.state.tx.us, or by calling the Open Records Division at (877) OPEN-TEX (673-6839).

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 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 did not, however, submit to this office a copy or representative sample of the requested information. As such, you have failed to meet the requirements of section 552.301.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to submit to this office 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). The applicability of section 552.110 of the Government Code provides a compelling reason sufficient to overcome the presumption that the submitted information is public. However, you have not submitted the information, so we have no basis for finding it confidential. Further, because no notice was given to any third parties whose proprietary rights may be implicated by this request, we have received no information or argument from any other parties. Thus, we have no choice but to order the information released per section 552.302. If you believe the information is confidential and may not lawfully be released, you must challenge the ruling in court as outlined below.

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).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to the General Services Commission at 512/475-2497.

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,



Amanda Crawford
Assistant Attorney General
Open Records Division

AEC/er

Ref: ID# 140872

cc: Ms. C. L. Waites
205 N. Martin Street
Quinlan, Texas 75474