THE ATTORNEY GENERAL
OF TEXAS

JIM MATTOX
ATTORNEY GENERAL

November 20, 1989

Honorable H.R. "Mike" Holzapfel
Sheriff, Hardin County
P.O. Box 1990
Kountze, Texas 77625

Dear Sheriff Holzapfel:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 7484; this decision is OR89-387.

Under the Open Records Act, all information held by governmental bodies is open unless the information falls within one of the act's specific exceptions to disclosure. Attorney General Opinion H-436 (1974). The act places on the custodian of records the burden of proving that records are excepted from public disclosure. If a governmental body fails to claim an exception, the exception is ordinarily waived unless the information is deemed confidential under the act. See Attorney General Opinion JM-672 (1987). The act does not require this office to raise and consider exceptions that you have not raised.

The Dallas Morning News (the News) requested the internal investigation files of the Hardin County Sheriff's Department that relate to the United State Department of Justice civil rights investigations involving Hardin County peace officers. You state that the News has identified the files it seeks only by the corresponding Department of Justice identification numbers and that the county is unable to determine from the written request which files correspond with the provided numbers. You now seek a decision from this office as to whether the request is sufficiently specific for the county to determine what information is being sought and if the county is legally required to obtain information from another governmental body, i.e. the Department of Justice, to determine what is being sought by the requestor.

In Open Records Decision No. 87 (1975), this office held that the Open Records Act imposes an obligation on a governmental body to make a good faith effort to relate open records requests to documents that it holds. See also Open Records Decision No. 58 (1974). One manner of exhibiting

this good faith is to advise the requestor of the types of documents available so that he may narrow his request. Id.; see also Open Records Decision No. 304 (1982).

This, however, is not the only manner in which a governmental body may demonstrate good faith. The requestor has provided the county with the name and telephone number of a Department of Justice employee who is authorized to disclose to the county the identity of each peace officer under investigation in relation to the identification numbers you now hold. The county can easily obtain this information via correspondence or telephone conversation with the Department of Justice, just as other Texas cities have in response to similar requests from the News. Once the requested records have been so identified, you will have ten days in which to submit representative samples of the documents with your arguments as to why the information should not be released.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR89-387.

Yours very truly,

Open Government Section of the Opinion Committee

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of the Opinion Committee
Approved by Jennifer S. Riggs
Chief, Open Government Section

JSR/RWP/le

Ref.: ID# 7484

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