



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 21, 1995

Mr. Foster Spurlock
Director
Community Supervision and Corrections Department
County of Galveston
123 Rosenberg, 4th Floor
Galveston, Texas 77550

OR95-426

Dear Mr. Spurlock:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 32898.

The Community Supervision and Corrections Department, the County of Galveston (the "department"), received a request for "[a] list of names, ages and addresses of the sex offenders under your jurisdiction, as well as the offenses for which they were convicted/sentenced." You claim that the requested information is excepted from required public disclosure under sections 552.003, 552.101, and 552.221 of the Government Code.

First, we note that the department received the request for information on March 9, 1995. Yet, the department's request for a ruling from this office is dated April 4, 1995. Section 552.301 of the Open Records Act provides that:

(a) A governmental body that receives a written request for information that it considers to be within one of the exceptions under Subchapter C must ask for a decision from the attorney general about whether the information is within that exception if there has not been a previous determination about whether the information falls within one of the exceptions. The governmental

body must ask for the attorney general's decision within a reasonable time but not later than the 10th calendar day after the date of receiving the written request.

(b) A governmental body that wishes to withhold information must submit written comments stating the reasons why the information should be withheld.

Section 552.302 provides that:

If a governmental body does not request an attorney general decision as provided by Section 552.301(a), the information requested in writing is presumed to be public information.

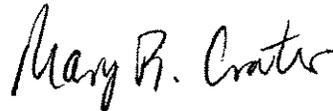
Where requests are not made within ten days, the information is presumed to be public. Open Records Decision No. 319 (1982). A governmental body must show a compelling reason to overcome this presumption, that is, that the information is confidential under some other source of law or that third-party privacy interests are at stake. *Id.*; see *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.--Austin 1990, no writ). You have shown a compelling reason to overcome the presumption, that is, that the information is confidential by law.

Section 552.101 excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." You contend that the requested information is made confidential by the provisions of article 6252-13c.1, V.T.C.S., the sexual offender registration program. Article 6252-13c.1, V.T.C.S., requires sexual offenders who are released from prison by discharge, parole, or placement on mandatory supervision to register with the local law enforcement authority in the municipality or county where the person resides or intends to reside for more than seven days. V.T.C.S. art. 6252-13c.1, § 2(a). The registration record includes the person's full name, birth date, and home address, type of offense, and "any other information required by the [Department of Public Safety]." *Id.* § 2(b). "A person who releases the information required for registration under this article to a person other than a full-time, fully paid, employed law enforcement officer" commits a Class B misdemeanor. *Id.* § 5. Accordingly, the requested information is confidential under law and the department must withhold it from disclosure.¹

¹We note that at least some of the requested information may become public as of September 1, 1995 under recently enacted legislation. See Acts 1995, 74th Leg., R.S., ch. 258 (effective Sept. 1, 1995) (amending V.T.C.S. art. 6252-13c.1).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Mary R. Crouter
Assistant Attorney General
Open Government Section

MRC/LBC/rho

Ref: ID# 32898

Enclosures: Submitted documents

cc: Ms. Maggie Sieger
Reporter
The Daily News
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(w/o enclosures)