



Office of the Attorney General
State of Texas

December 31, 1993

DAN MORALES
ATTORNEY GENERAL

Mr. Leonard W. Peck, Jr.
Assistant General Counsel
Legal Affairs Division
Texas Department of Criminal Justice
P.O. Box 99
Huntsville, Texas 77342-0099

OR93-067

Dear Mr. Peck:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code (former article 6252-17a, V.T.C.S.¹). Your request was assigned ID# 18375.

The Texas Department of Criminal Justice (the "department") received an open records request from Mr. Alton Simmons on December 7, 1992. Although your initial letter to this office requesting an open records decision is dated December 15, 1992, your letter was not postmarked until December 28, 1992. Consequently, you failed to request a decision within the 10 days required by section 552.301 of the Government Code.

Section 552.301 requires a governmental body to release requested information or to request a decision from the attorney general within 10 days of receiving a request for information the governmental body wishes to withhold. When a governmental body fails to request a decision within 10 days of receiving a request for information, the information at issue is presumed public. *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379 (Tex. App. - Austin 1990, no writ); *City of Houston v. Houston Chronicle Publishing Co.*, 673 S.W.2d 316, 323 (Tex. App. - Houston [1st Dist.] 1984, no writ); Open Records Decision No. 319 (1982). The governmental body must show a compelling interest to withhold the information to overcome this presumption. *See id.*

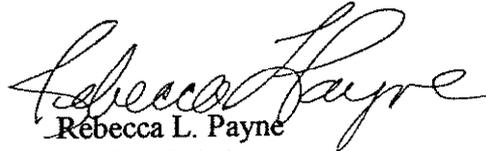
You have not shown compelling reasons why the information at issue should not be released. The information is presumed to be public and must be released. Because case law and prior published open records decisions resolve your request, we are resolving

¹The Seventy-Third Legislature repealed article 6252-17a, V.T.C.S. Acts 1993, 73d Leg., ch. 268, § 46, at 988. The Open Records Act is now codified in the Government Code at chapter 552. *Id.* § 1. The codification of the Open Records Act in the Government Code is a nonsubstantive revision. *Id.* § 47.

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this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact our office.

Yours very truly,



Rebecca L. Payne
Section Chief
Open Government Section

RLP/RWP/lmm

Ref: ID# 18375
ID# 18624

Enclosures: Submitted documents

cc: Mr. Alton Simmons
TDCJ #462191
Eastham Unit
P.O. Box 16
Lovelady, Texas 75851
(w/o enclosures)