



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

October 29, 1996

Mr. Kevin D. Pagan  
Assistant City Attorney  
City of McAllen  
P.O. Box 220  
McAllen, Texas 78505-0220

OR96-1979

Dear Mr. Pagan:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 101863.

The City of McAllen Police Department (the "department") received a request for any records relating to an individual. You assert that the requested information is excepted from required public disclosure under section 552.108 of the Government Code.

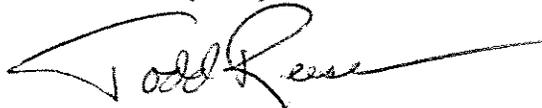
Section 552.301 of the Government Code provides that a governmental body must ask the attorney general for a decision as to whether requested documents must be disclosed not later than the tenth calendar day after the date of receiving the written request. The request is dated July 28, 1996 and the department received the written request for information no later than August 6, 1996. You did not request a decision from this office until August 22, 1996, more than ten days after the requestor's written request. Therefore, we conclude that the department failed to meet its ten-day deadline for requesting an opinion from this office.

When a governmental body fails to request a decision within ten 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); Gov't Code § 552.302. The governmental body must show a compelling interest to withhold the information to overcome this presumption. *See id.* Normally, a compelling interest is that some other source of law makes the information confidential or that third party interests are at stake. Open Records Decision

No. 150 (1977) at 2. Consequently, we conclude that you may not rely upon section 552.108 to withhold the requested information. As you raise no other exceptions to disclosure, you must release the requested information to the requestor.

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 may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink that reads "Todd Reese". The signature is written in a cursive style with a long horizontal stroke extending to the right.

Todd Reese  
Assistant Attorney General  
Open Records Division

RTR/rho

Ref.: ID# 101863

Enclosures: Submitted documents

cc: Diversified Legal Service  
4606 Centerview Drive #257  
San Antonio, Texas 78228  
(w/o enclosures)