



Office of the Attorney General
State of Texas
November 15, 1996

DAN MORALES
ATTORNEY GENERAL

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

OR96-2129

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# 101856.

The McAllen Police Department (the "department"), which you represent, received a request for all information concerning a certain offense. You claim that the information is exempted from required public disclosure by section 552.108 of the Government Code. We have reviewed the responsive documents at issue.

The Open Records Act imposes a duty on governmental bodies seeking an open records decision pursuant to section 552.301 to submit that request to the attorney general within ten days after the governmental body's receipt of the request for information. The time limitation found in section 552.301 is an express legislative recognition of the importance of having public information produced in a timely fashion. *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.--Austin 1990, no writ). When a request for an open records decision is not made within the time period prescribed by section 552.301, the requested information is presumed to be public. See Gov't Code § 552.302. This presumption of openness can only be overcome by a compelling demonstration that the information should not be made public. See, e.g., Open Records Decision No. 150 (1977) (presumption of openness overcome by a showing that the information is made confidential by another source of law or affects third party interests).

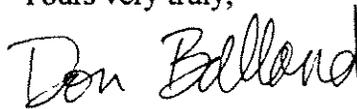
In this instance, the request for information was received by your office on July 24, 1996. You sought an open records decision from this office on August 22, 1996. Consequently, you have not met your burden under section 552.301 of the act. See Gov't Code 552.308(1).

In the absence of a demonstration that the information is confidential by law or that other compelling reasons exist as to why the information should not be made public, you must release the information. Open Records Decision No. 195 (1978). See also Gov't Code

§ 552.352 (the distribution of confidential information is a criminal offense); Open Records Decision 586 (1991) (need of another governmental body to withhold requested information may provide compelling reason for nondisclosure). If you have any questions regarding this matter, please contact our office.

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 regarding any other records. If you questions about this ruling, please contact our office.

Yours very truly,



Don Ballard
Assistant Attorney General
Open Records Division

JDB/

Ref: ID# 101856

Enclosures: Submitted documents

cc: Captain Brett C. Conyers
Acting Chief, Military Justice
Office of the Staff Judge Advocate
2250 Stanley Road
Fort Sam Houston, Texas 78234-6100
(w/o enclosures)