



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 6, 1997

Ms. Kay Douglas
Assistant Criminal District Attorney
Walker County
P.O. Box 1659
Huntsville, Texas 77342

OR97-0268

Dear Ms. Douglas:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 103667.

Walker County (the "county") received a request for copies of the employment applications of two sheriff's deputies. You claim that the requested information is exempted from disclosure under sections 552.102 and 552.119 of the Government Code.

Chapter 552 of the Government Code 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 showing that information is made confidential by another source of law or affects third party interests).

Section 552.301 of the Government Code requires a governmental body to submit to this office within fifteen days of receiving the request for information a copy of the request for information and copies of the requested information or representative samples of that information if it is voluminous. Gov't Code § 552.301(b)(2), (3). On November 20, 1996, we requested certain information from you in connection with your request for a ruling under chapter 552. To date, we have not received that information.

See Gov't Code § 552.301(b). Chapter 552 places on the custodian of public records the burden of establishing that records are excepted from public disclosure. Attorney General Opinion H-436 (1974). Without the information requested from you, this office is unable to evaluate the exception you raised. Consequently, we find that you have not met your burden under chapter 552 and that the information is presumed to be public. Open Records Decision No. 195 (1978).

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 Gov't Code § 552.352* (distribution of confidential information is criminal offense). If you have any questions regarding this matter, please contact our office.

Yours very truly,



Stacy E. Sallee
Assistant Attorney General
Open Records Division

SES/ch

Ref.: ID# 103667

cc: Mr. John E. Choate, Jr.
402 Simonton
Conroe, Texas 77301