



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 19, 1997

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

OR97-2518

Dear Mr. Peck:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 110105.

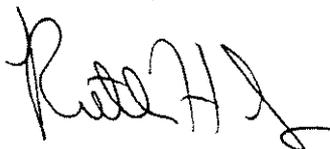
The Texas Department of Criminal Justice (the "department") received requests for information pertaining to a motor vehicle accident. You assert that the information at issue is excepted from disclosure under section 552.103(a) of the Government Code. We note initially that the requestor first asked for information concerning this accident in 1996, but apparently this information was not supplied. The requestor again asked for the information at issue by letter dated August 7, 1997. You state that the department did not open the request until August 11, 1997, even though the request was received by the department on August 9, 1997. We note that the timeliness of a request for a decision is determined from the actual date of receipt. Open Record Decision No. 44 (1974) at 2. In any event, the department did not seek a decision from this office until August 22, 1997, more than ten days after August 11, 1997.

The department failed to request a ruling within the time period required by section 552.301 of the Government Code. When a governmental body fails to timely seek a decision from this office, 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 Publ'g Co.*, 673 S.W.2d 316, 323 (Tex. App.--Houston [1st Dist.] 1984, no writ); Open Records Decision No. 319 (1982). A 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. 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 records at issue.¹ Open Records Decision No. 195 (1978).

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 have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref.: ID# 110105

cc: Mr. Stephen Mitchell
Attorney at Law
P.O. Box 1257
Hurst, Texas 76053

¹We note that some of the records requested may be confidential medical records. Access to medical records is governed by provisions of the Medical Practice Act (the "MPA"), article 4495b of Vernon's Texas Civil Statutes rather than chapter 552 of the Government Code.