

January 15, 1999



OFFICE OF THE
ATTORNEY GENERAL
STATE OF TEXAS

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JOHN CORNYN
Attorney General

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P.O. Box 12548
Austin, Texas
78711-2548

(512) 463-2100
www.oag.state.tx.us

Ms. Marie Dolores Cordova
City Secretary
City of Jourdanton
1220 Simmons Avenue
Jourdanton, Texas 78026

OR99-0111

Dear Ms. Cordova:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code, the Open Records Act. Your request was assigned ID# 123108 and # 123133.

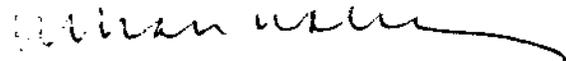
The City of Jourdanton (the "city") received requests from a city councilperson for city bank statements from October 1, 1991, through October 30, 1998, and for police reports "in which an Uzi machine gun with a 30-round clip and a sawed off shotgun were caused to be in the vault at the Jourdanton Police Department and any other information relating to the acquisition of those weapons." You submit information responsive to the requests. We do not understand you to raise any exceptions to disclosure of the requested information. Rather, you ask whether the requested materials may lawfully be released to the requestor.¹

¹Please note that 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 business 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).

The requestor is a member of the city council and indicates in the requests that the information is to be used in her official duties. This office has previously ruled that members of the governing body of a state or local governmental entity have an inherent right to examine the records of the governmental entity if they request access to the records in their official capacity. *See* Attorney General Opinion JM-119 (1983); Attorney General Letter Opinion No. 93-69 (1993). Therefore, the requested records must be made available in their entirety to the requestor here. Please note, however, that the records you submitted appear to contain information made confidential under sections 552.101, 552.117, and 552.130 of the act. Although we have found that the city must release the requested information in its entirety to the requestor here, the city and the requestor are prohibited from distributing confidential information contained therein to the public. Gov't Code § 552.352. *See also*, Attorney General Letter Opinion 69 (1993) (members of governmental body may examine confidential information without waiving its confidentiality or affecting the governmental body's authority to withhold it from public disclosure).

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,



William Waiker
Assistant Attorney General
Open Records Division

WMW/ch

Ref: ID# 123108

You received the requests for information on November 25, 1998 and December 3, 1998. You did not seek a decision from this office until January 6, 1999, and January 5, 1999, respectively. Consequently, you have not met your statutory burden. Gov't Code § 552.301. The requested information, except for confidential information contained therein, is therefore presumed public. However, since we find that the requestor here has a right of access to the information at issue in its entirety, we need not further consider here the consequences of the city's lack of timeliness in seeking the decision of this office.