



December 2, 1999

Mr. Bill Farney
Director
University Interscholastic League
Box 8028 - University Station
Austin, Texas 78713-8028

OR99-3469

Dear Mr. Farney:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 130673.

The University Interscholastic League received a request for information related to the Forney Independent School District baseball program. You seek to withhold a signature on a letter responsive to the request. The letter, *inter alia*, contends that a certain baseball player is ineligible to play. We understand you to seek to withhold the signature in question under the informer's privilege.

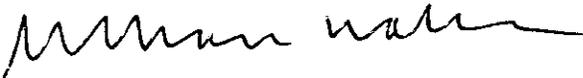
The Public Information Act imposes a duty on governmental bodies seeking an open records decision pursuant to section 552.301(b) to submit that request for a decision to the attorney general within ten days after the governmental body's receipt of the request for information. The time limitation found 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(b), the requested information is presumed to be public and must be released "unless there is a compelling reason to withhold the information." 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). Here, the request for information is dated June 15, 1999. Your letter seeking the decision of this office was postmarked October 20, 1999, and was thus untimely.

The "informer's privilege" aspect of section 552.101 of the Government Code protects the identity of persons who report violations of the law. Although the privilege ordinarily applies to the efforts of law enforcement agencies, it can apply to administrative officials with a duty of enforcing particular laws. Attorney General Opinion MW-575 (1982); Open Records Decision Nos. 285, 279 (1981); *see also* Open Records Decision No. 208 (1978).

However, the informer's privilege serves to protect the flow of information to a governmental body; it does not serve to protect the informant. Open Records Decision No. 549 (1990). Since it serves to protect the governmental body's interest, this privilege, unlike other section 552.101 claims, may be waived by the governmental body. Thus, since the privilege is not a confidentiality rule which mandates withholding information, and does not serve to protect the interests of third parties, it may not serve as a compelling reason for withholding information under section 552.302 when the governmental body has failed to timely seek an attorney general decision under section 552.301(b). Consequently, the signature at issue must be released pursuant to section 552.302.

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.

Sincerely,



William Walker
Assistant Attorney General
Open Records Division

WMW/ljp

Ref: ID# 130673

Encl. Submitted documents

cc: Mr. Chester J: St. Clair, Ed. D.
Forney I.S.D.
600 South Bois D'Arc
Forney, Texas 75126
(w/o enclosures)