



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 14, 1995

Mr. David M. Douglas
Assistant Chief
Legal Services
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR95-1233

Dear Mr. Douglas:

On August 14, 1995, we received your request for an open records decision under section 552.301 of the Government Code. We assigned your request ID# 35298. You assert that the requested information is excepted from required public disclosure under sections 552.103 and 552.108 of the Government Code.

The Open Records Act imposes a duty on a governmental body seeking an open records decision under section 552.301 to submit the 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. *See 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 be overcome only by a compelling demonstration that the information should not be made public. *See, e.g., Open Records Decision No. 150 (1977) at 2 (presumption of openness overcome by showing that information is made confidential by another source of law or affects third party interests).*

We realize that the short time frame prescribed by section 552.301 may occasionally impose a substantial burden on governmental bodies seeking to comply with these provisions. Accordingly, when we receive an otherwise timely request for an open records decision that lacks some information necessary for us to make a determination, we give the governmental body an opportunity to complete the request. On August 24, 1995, we asked you to provide copies of the requested records. To date, we have not received your reply.

The Open Records Act places on the custodian of public records the burden of establishing that records are excepted from public disclosure. Attorney General Opinion H-436 (1974) at 3. Your request for an open records decision remains incomplete. Without the information requested from you, this office is unable to evaluate the exceptions you raised. Consequently, we find that you have not met your burden under sections 552.301 through 552.303 of the Government Code and that the information is presumed to be public.

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

Yours very truly,

A handwritten signature in cursive script that reads "Margaret A. Roll".

Margaret A. Roll
Assistant Attorney General
Open Records Division

MAR/rho

Ref.: ID# 35298

cc: Mr. James M. Murphy
P.O. Box 140809
Dallas, Texas 75214