



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

October 15, 1996

Mr. Larry W. Schenk  
City Attorney  
P.O. Box 1952  
Longview, Texas 75606-1952

OR96-1880

Dear Mr. Schenk:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 101466.

The City of Longview (the "city") received a request for all records pertaining to a certain individual. You claim that the requested information is excepted from required public disclosure by section 552.103 of the Government Code. You have submitted the requested documents at issue for our review.

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 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).

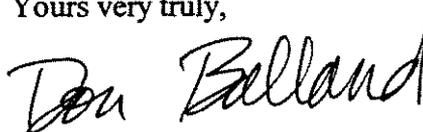
In this instance, the request for information is dated May 23, 1996. You state that the city received the request for information on July 25, 1996. You sought an open records decision from this office on August 6, 1996. Gov't Code 552.308(1). Consequently, you have not met your burden under section 552.301 of the act.

In the absence of a demonstration that the information is confidential by law in this

circumstance 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* Open Records Decision No. 473 (1987) (section 552.103 generally does not provide compelling reason to overcome presumption of openness). We note, however, that some of the requested information may be confidential by law. Thus, if someone other than the subject of this investigation or their attorney requests the information, the city should reassert its arguments against disclosure at that time. *See* Gov't Code § 552.352 (the distribution of confidential information is a criminal offense); *United States Dep't. of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749 (1989) (individual's right to privacy implicated where individual's criminal history information has been compiled by governmental entity).

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 questions about this ruling, please contact our office.

Yours very truly,



Don Ballard  
Assistant Attorney General  
Open Records Division

JDB/ch

Ref: ID# 101466

Enclosures: Submitted documents

cc: Mr. Jose' Portela  
Law Offices of James H. Anderson  
1610 North Fitzhugh  
Dallas, Texas 75204-4899  
(w/o enclosures)