



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

December 16, 1997

The Honorable Tom Holleman  
Leon County Attorney  
P.O. Box 429  
Centerville, Texas 75833

OR97-2751

Dear Mr. Holleman:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 111587.

The Leon County Sheriff's Department (the "department") received a request for "[a]ll notes and summaries of the Leon County Sheriff's Department investigation into allegations made against and involving Brett Audilet, former police chief of Normangee." You have released a copy of the front page offense report information to the requestor. You contend that the remaining information responsive to the request is excepted from disclosure under section 552.108(a) of the Government Code.

Chapter 552 of the Government Code imposes a duty on a governmental body 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).

You state that the requestor made her request for information on September 24, 1997. However, you did not request a decision from this office until October 17, 1997, more than ten business days after the department received the request. We note that a section 552.108 claim is discretionary, and a governmental body generally waives this claim by failing to timely raise it. *See* Open Records Decision No. 216 (1978). Therefore, unless the information at issue is confidential

by law or other compelling reasons exist as to why it should not be made public, you must release the information.

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 any questions about this ruling, please contact our office.

Yours very truly,



Karen E. Hattaway  
Assistant Attorney General  
Open Records Division

KEH/ch

Ref: ID# 111587

Enclosures: Submitted documents

cc: Ms. Kelli Levey  
Regional Editor  
The Eagle  
P.O. Box 3000  
Bryan, Texas 77805  
(w/o enclosures)

Mr. Joel R. Sharp  
Jenkins & Gilchrist, P.C.  
1445 Ross Avenue, Suite 3200  
Dallas, Texas 75202-2799  
(w/o enclosures)