



November 9, 1999

Mr. Leonard W. Peck, Jr.
Assistant General Counsel
Texas Department of Criminal Justice
P.O. Box 4004
Huntsville, Texas 77342

OR99-3178

Dear Mr. Peck:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 130835.

The Texas Department of Criminal Justice (the "department"), received a request for information regarding job postings numbered 004284V5 and 004284V3, specifically as follows:

1. Interview Documentation of all interviewed
2. Application of Selected applicant
3. Any/all justification documenting selection
4. The questions and recommended responses.

You have provided for our review information that is responsive to item "4." We assume you have released any other responsive information in the possession of the department. Regarding the above-referenced item "4," you assert the requested information is excepted from public disclosure under section 552.122 of the Government Code. We have reviewed the information you have submitted and considered the exception you assert.

We note at the outset, however, that the department received the request for information on September 17, 1999. Your letter seeking a decision from this office was dated October 28, 1999 and was received on that date. Thus, the department failed to request an open records decision from this office within the ten day statutory period as required under Government

Code section 552.301. Pursuant to section 552.302 of the Government Code, a governmental body's failure to timely request a decision from this office results in the legal presumption that the information is public and must be released. Act of May 25, 1999, 76th Leg., R.S., ch. 1319, § 21, 1999 Tex. Sess. Law Serv. 4500, 4509 (Vernon) (to be codified as an amendment to Gov't Code § 552.302). Information that is presumed public must be released unless a governmental body demonstrates a compelling reason to withhold the information to overcome this presumption. *See Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.--Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to Gov't Code § 552.302); Open Records Decision No. 319 (1982). You have not shown such a compelling interest to overcome the presumption that the information at issue is public. Accordingly, you must release the requested 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 questions about this ruling, please contact our office.

Sincerely,



Michael Garbarino
Assistant Attorney General
Open Records Division

MG/ch

Ref: ID# 130835

Encl. Submitted documents

cc: Ms. Belinda J. Fernandez
P.O. Box 1865
Beeville, Texas 78104
(w/o enclosures)