



November 16, 1999

Mr. John Terrell
Erath County District Attorney
The 266th Judicial District Court
P.O. Box 30
Stephenville, Texas 76401

OR99-3260

Dear Mr. Terrell:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 129099.

The Erath County District Attorney's Office received a request for the following:

1. The date of filing of Record(s), with the county, relating to the criminal complaint filed against me for allegations of violation of the open meetings act and violation of municipal purchasing policy.

We note at the outset that this is the requestor's third request for information relating to the complaint filed against him. We also note that after receiving the two previous requests, your office withheld the responsive information without seeking an open records ruling from this office. Section 552.301 of the Government Code provides that a governmental body must ask the attorney general for a decision as to whether requested documents must be disclosed not later than the tenth business day after the date of receiving the written request.

When a governmental body fails to request a decision within ten business days of receiving a request for information, the information at issue is presumed public. *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379 (Tex. App.--Austin 1990, no writ); *City of Houston v. Houston Chronicle Publ'g Co.*, 673 S.W.2d 316, 323 (Tex. App.--Houston [1st Dist.] 1984, no writ); Open Records Decision No. 319 (1982). The governmental body must show a compelling interest to withhold the information to overcome this presumption. Normally, a compelling interest is that some other source of law makes the information confidential or that third party interests are at stake. Open Records Decision No. 150 at 2 (1977). We do not believe

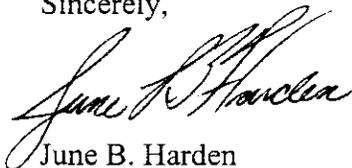
that you have demonstrated a compelling reason under section 552.108 to overcome the presumption of openness. Thus, you may not withhold the responsive information from the requestor under section 552.108.

You also state that your office does not maintain the responsive information in the form requested. Chapter 552 of the Government Code does not require a governmental body to prepare information in a form requested by a member of the public. Open Records Decision No. 467 (1987). However, a governmental body has a duty to make a good faith effort to relate a request for information to information the governmental body holds. Open Records Decision No. 561 at 8 (1990). Based on your arguments, it appears that your office maintains information from which the requested information can be obtained. Therefore, you must provide that information to the requestor without further delay.

In the future, we encourage you to consult the Office of the Attorney General Website at www.oag.state.tx.us or contact the Open Government Hotline at 1-877-OPENTEX (673-6839) regarding any general questions you may have about the Public Information Act and its requirements.

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 on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Sincerely,



June B. Harden
Assistant Attorney General
Open Records Division

JBH/ch

Ref: ID# 129099

cc: Mr. Donald Stewart
Chiropractor
251-C Harbin Drive
Stephenville, Texas 76401