



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 27, 1994

Ms. Detra Hill
Assistant City Attorney
Supervisor, Criminal and Police Division
City of Dallas
501 Police & Courts Building
Dallas, Texas 75201

OR94-701

Dear Ms. Hill:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 28878.

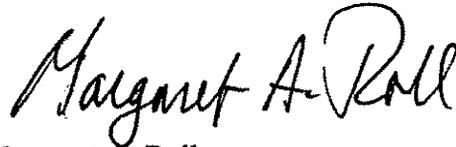
The Dallas Police Department (the "department") received an open records request for a copy of a 911 call in which a disturbance at the requestor's residence was reported. It is your apparent contention that the release of the tape recording would reveal the identity of the individual who reported the disturbance and that the tape recording therefore comes under the protection of the informer's privilege. The department received the open records request on August 17, 1994. You requested an open records decision from this office on September 1, 1994. Consequently, you failed to request a decision within the 10 days required by section 552.301(a) of the Government Code.

The Open Records Act requires a governmental body to release requested information or to request a decision from the attorney general within 10 days of receiving a request for information that the governmental body wishes to withhold. See Gov't Code § 552.301(a). When a governmental body fails to request a decision from the attorney general within 10 days of receiving a request for information, the information at issue is presumed to be public. See *id.* § 552.301(b); *City of Houston v. Houston Chronicle Publishing Co.*, 673 S.W.2d 316, 323 (Tex. App.--Houston [1st Dist.] 1984, no writ). To overcome this presumption, a governmental body must show a compelling interest to withhold the information. *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.--Austin 1990, no writ); Open Records Decision No. 552 (1990) at 1.

A compelling interest may arise when a third-party's interests are at stake. Open Records Decision No. 552 at 1. However, the informer's privilege is designed to protect the government's interests, and thus, the existence of this privilege by itself does not demonstrate a compelling interest to withhold the information. Furthermore, you have not provided any additional information that would constitute a compelling reason for withholding the requested tape recording in this particular instance. Therefore, because you have not presented this office with a compelling reason why the information should not be released, the department must release the tape recording at this time.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with an informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact our office.

Yours very truly,



Margaret A. Roll
Assistant Attorney General
Open Government Section

MAR/RWP/rho

Ref.: ID# 28878

Enclosure: Tape recording

cc: Mr. Arnold L. Hayes
101 North Brookside, # 214
Dallas, Texas 75214
(w/o enclosures)