



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 28, 1994

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

OR94-715

Dear Ms. Hill:

You have asked this office to reconsider its ruling in Open Records Letter 94-448 (1994) with regard to the name, address, and telephone number of certain witnesses identified in Dallas Police Department records. Your request was assigned ID# 28899.

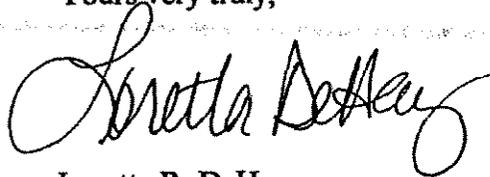
In Open Records Letter No. 94-448, this office held that because the City of Dallas (the "city") had failed to request an open records decision in a timely manner as required by section 552.301 of the Government Code, certain police department records pertaining to pending criminal charges against Derek Andrie Haggerty must be released to the public unless the city demonstrated compelling reasons for withholding those records. You inform this office that the city has released to the requestor all of the records at issue except for the names, addresses, and telephone numbers of witnesses who have cooperated with the criminal investigations. In the form of an affidavit, you have presented this office with the following facts:

1. All of the criminal charges against the arrested individual are pending.
2. The criminal defendant has threatened to kill a witness to one of the offenses.
3. The criminal defendant has attempted to escape police custody during the investigation of the offenses.

As noted in Open Records Letter No. 94-448, the presumption that information is public arising from a violation of the 10-day rule can be overcome only by a compelling demonstration that the information should not be released. Such a demonstration is shown where third party interests are at issue. Open Records Decision No. 150 (1977) at 2. Further, this office has previously held that the names of witnesses may be withheld if it is determined necessary in order to protect witnesses from intimidation or harassment. Open Records Decision No. 397 (1983). In this instance you have clearly demonstrated the possibility that those individuals who cooperated with the criminal investigation may be subject to harassment or intimidation by the criminal defendant. We therefore conclude that you have shown compelling reasons for withholding the name, address, and telephone number of those individuals. Accordingly, the city may withhold this information at this time¹ pursuant to section 552.108 of the Government Code.

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,



Loretta R. DeHay
Assistant Attorney General
Open Government Section

LRD/RWP/rho

Ref.: ID# 28899
Open Records Letter No. 94-448

Enclosures: Submitted documents

cc: Mr. Charles U. Maduka
Maduka & Associates
3323 Shorecrest Drive, Suite #225
Dallas, Texas 75235
(w/o enclosures)

¹This ruling does not address the extent to which this information will continue to be protected from public disclosure in the event any of these individuals testify against the criminal defendant in open court.