



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

July 12, 1996

Ms. Katheryn H. West  
Assistant City Attorney  
City of Dallas  
City Hall  
Dallas, Texas 75201

OR96-1128

Dear Ms. West:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 40197.

The City of Dallas (the "city") received a request for a copy of the investigating officer's personal notes concerning his measurements and calculations as they relate to an accident, on September 29, 1995, where the speed of Officer Stephen Geron's vehicle is at issue. You inform us that the information requested "if released, will compromise a pending police investigation."<sup>1</sup> You assert that the requested information is excepted from required public disclosure based on section 552.108 of the Government Code.

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 calendar day after the date of receiving the written request. Section 552.301(a) of the Government Code provides that:

A governmental body that receives a written request for information that it wishes to withhold from public disclosure and that it considers to be within one of the [act's] exceptions . . . *must ask for the attorney general's decision and state the exceptions that apply within a reasonable time but not later than the 10th calendar day after the date of receiving the request.* (Emphasis added.)

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<sup>1</sup>You assert that your office is responsible for representing the legal interests of both the City of Dallas and the Police Department.

The city received the written request for information on March 26, 1996. You did not request a decision from this office until April 18, 1996, more than ten days after the requestor's written request. Therefore, we conclude that the city failed to meet its ten-day deadline for requesting an opinion from this office.

Because the city did not request an attorney general decision within the deadline provided by section 552.301(a), the requested information is presumed to be public information. Gov't Code § 552.302; *see Hancock v. State Bd. of Ins.*, 797 S.W.2d 379 (Tex. App.--Austin 1990, *no writ*); *City of Houston v. Houston Chronicle Publishing 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. *See id.* 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 (1977) at 2.

The city has not raised any specific compelling reasons to overcome the presumption that the information is public. Consequently, you may not withhold any of the requested information under section 552.108 of the Government Code.

We are resolving this matter with this 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 may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in cursive script that reads "Sam Haddad". The signature is written in black ink and is positioned above the typed name and title.

Sam Haddad  
Assistant Attorney General  
Open Records Division

SH/rho

Ref.: ID# 40197

Enclosure: Submitted information

cc: Mr. Michael L. Cronig  
Burleson, Pate & Gibson  
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(w/o enclosure)