



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

August 20, 1996

Mr. Todd E. Givens  
Assistant City Attorney  
Criminal and Police Division  
City of Dallas  
City Hall  
Dallas, Texas 75201

OR96-1495

Dear Mr. Givens:

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 RQ-833.

The City of Dallas Police Department has received a request for the records of a specified police investigation. You contend that the records of the investigation, which you submitted for our review, are excepted from disclosure by section 552.108 of the Government Code.

We first address whether you were required to timely request an attorney general decision under section 552.301 of the Government Code to withhold the requested records under section 552.108. Section 552.301 requires a governmental body to request an attorney general decision within ten days of receiving a request for records under the Open Records Act, unless there has been a "previous determination about whether the information falls within one of the exceptions." The scope of this portion of section 552.301(a) is narrow. A governmental body need not request another decision from this office if it has previously requested and received a determination from this office about the precise information at issue in the pending request. Generally, however, if the *previous decision did not involve the same actual information, this office does not treat the pending request as governed by the previous decision, because this office must apply the legal standard of a particular exception the specific information at issue in each case.* Open Records Decision No. 435 (1986); *see also Houston Chronicle Publishing Co., v. Mattox*, 767 S.W.2d 695, 698 (Tex. 1989).

You did not submit your request for a decision to this office within the ten days required by section 552.301(a) of the Government Code. You received the open records request on September 15, 1994. You requested a decision from this office by letter dated October 5, 1994. On the basis of these facts, we conclude that the city failed to request a decision within the ten day period section 552.301(a) of the Government Code mandates. When a governmental body fails to request a decision as required by section 552.301(a) of the Government Code, a presumption arises that the information is public information and must be released to the public. Gov't Code § 552.302. A governmental body may overcome this presumption only by demonstrating compelling reasons for withholding the information. Open Records Decision No. 552 (1990) at 1. Compelling reasons for withholding the information exist when the information is made confidential by another source of law or when the information affects the interests of a third party. Open Records Decision Nos. 625 (1994) at 9, 552 (1990) at 1. In this case, you have not demonstrated compelling reasons to withhold the information. Therefore, 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.

Yours very truly,



Loretta R. DeHay  
Assistant Attorney General  
Open Records Division

LRD/rho

Ref.: RQ-833

Enclosures: Submitted documents

cc: Ron and Ellen Bath  
5104 Trails Edge Drive  
Arlington, Texas 76017  
(w/o enclosures)