



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

August 29, 1996

Ms. D. Kay Woods  
Abernathy, Roeder, Robertson  
& Joplin, P.C.  
P.O. Box 1210  
McKinney, Texas 75069-1210

OR96-1552

Dear Ms. Woods:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 37765.

The City of Lavon (the "city") received a request for a "list of all drug-offense related arrests made by Lavon police officers for the fiscal years 1994, 1995, and year-to-date" and "[a]ll affidavits for executed search and arrest warrants related to drug offenses during the same time period, including return and inventory listings." You assert that this information is excepted from required public disclosure pursuant to 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. The city received the written request for information on December 4, 1995. You did not request a decision from this office until December 15, 1995, 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.

When a governmental body fails to request a decision within ten 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 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. Consequently, you may not withhold any of the requested information under section 552.108 of the Government Code.<sup>1</sup>

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,



Todd Reese  
Assistant Attorney General  
Open Records Division

RTR/rho

Ref.: ID# 37765

Enclosures: Submitted documents

cc: Mr. Douglas Holt, Reporter  
Dallas Morning News  
P.O. Box 655237  
Dallas, Texas 75265  
(w/o enclosures)

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<sup>1</sup>In addition, we note that Exhibit A is front page information which has been specifically held to be public. *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). Exhibits B through H are public by statute. Code Crim. Proc. art. 18.01(b).