



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

October 29, 1996

Mr. Richard S. Hoffman  
Law Office of Richard S. Hoffman  
1718 Boca Chica Blvd.  
Brownsville, Texas 78520

OR96-1987

Dear Mr. Hoffman:

On behalf of the City of Port Isabel, you ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 102023.

The City of Port Isabel Police Department (the "department") received a request to view "the dispatch log maintained by the Police Records Office containing all information currently maintained by the department regarding dispatch activity." You assert the requested information is excepted from required public disclosure under 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 department apparently received the written request for information on or before August 14, 1996. You apparently did not request a decision from this office until August 30, 1996, more than ten days after the requestor's written request. Therefore, we conclude that the department 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.<sup>1</sup>

In the absence of a demonstration that the information is confidential by law or that other compelling reasons exist as to why the information should not be made public, you must release the information. *See also* Gov't Code § 552.352 (the distribution of confidential information is a criminal offense). If you have any questions regarding this matter, please contact this office.

Yours very truly,



Todd Reese  
Assistant Attorney General  
Open Records Division

RTR/rho

Ref.: ID# 102023

Enclosures: Submitted documents

cc: Rene R. Jerez, President  
Med-Care Services, Inc.  
946 West Nolana Loop, Suite A  
Pharr, Texas 78577  
(w/o enclosures)

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<sup>1</sup>Despite your assertion to the contrary, we note that section 47 of article 6701d, V.T.C.S., is inapplicable to this request. Section 47 specifically applies only to "accident reports," not to "dispatch logs." *See* Open Records Decision No. 478 (1987) (as a general rule, statutory confidentiality requires express language making particular information confidential). You may not rely upon this section to withhold the information requested.