



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 30, 1997

Mr. R. Vic Morgan
President
Sul Ross State University
Alpine, Texas 79832

OR97-1732

Dear Mr. Morgan:

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 ID# 107492.

Sul Ross State University (the "University") received one request from each of three different individuals, for information related to the University Department of Public Safety's investigation of a particular incident. In response to the request, you submitted to this office for review a copy of the information which you assert is responsive. You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claimed and have reviewed the documents at issue.

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 time limitation found in section 552.301 is an express legislative recognition of the importance of having public information produced in a timely fashion. *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.--Austin 1990, no writ). When a request for an open records decision is not made within the time period prescribed by section 552.301, the requested information is presumed to be public. See Gov't Code § 552.302.

The University received the initial written request for information on April 8, 1996,¹ the next request is dated April 28, 1997, and the final request for information is dated May 1, 1997. You did not request a decision from this office until May 8, 1997, more than ten

¹We note that the date on the submitted copy of the written request for information is partially cut off the page. Therefore, we can only be sure of the month and year of the request.

days after you received the first written request. Therefore, as for the first request for information, we conclude that the University failed to meet its ten-day deadline for requesting an opinion from this office. Because the University 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*, 797 S.W.2d 379; *City of Houston v. Houston Chronicle Publ'g Co.*, 673 S.W.2d 316, 323 (Tex. App.--Houston [1st Dist.] 1984, *no writ*); Open Records Decision Nos. 319 (1982), 195 (1978). Since the University failed to request a decision, within the requisite time, in response to the first request for information, and as we must reach a uniform result, we conclude that the requested information is presumed public with respect to all three requests. *See generally* Gov't Code §552.223 (uniform treatment of requests for information); *see also* Gov't Code § 552.007(b) (prohibiting selective disclosure of public information); Open Records Decision No. 454 (1986).

This presumption can be overcome only by 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. *See, e.g.*, Open Records Decision Nos. 195 (1978), 150 (1977). Normally, a compelling interest is demonstrated when some other source of law makes the information confidential or when third party interests are at stake. Open Records Decision No. 150 (1977) at 2. Therefore, in the absence of a compelling interest, you must release the requested information.

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,


Sam Haddad
Assistant Attorney General
Open Records Division

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Ref.: ID# 107492

Enclosure: Submitted documents

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