



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

August 11, 1997

Ms. Roxann Pais  
Assistant City Attorney  
City of Dallas  
Criminal Law and Police Division  
Municipal Building  
Dallas, Texas 75201

OR97-1790

Dear Ms. Pais:

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# 107856.

The City of Dallas Police Department (the "department"), which your office represents, received a request for a "copy of [sic] record of the Radar Guns last calibration prior to 01-11-97," and a "copy of Certification or Training records," for a specified officer. In response to the request, you submitted to this office for review a representative sample of the information which you assert is responsive.<sup>1</sup> You claim that the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim 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.

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<sup>1</sup>We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). Here, we do not address any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

The department received the written request for information on May 9, 1997. However, you did not request a decision from this office until May 22, 1997, 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. Because the department 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).

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. We note that you have not shown such a compelling interest. 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

SH/ghg

Ref.: ID# 107856

Enclosure: Submitted information

cc: Mr. Ricardo Martinez  
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Irving, Texas 75038  
(w/o enclosures)