



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 20, 1995

Mr. Robert J. Miklos
Assistant City Attorney
Criminal Law and Police Division
City of Dallas
City Hall
Dallas, Texas 75201

OR95-1541

Dear Mr. Miklos:

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# 36951.

You inform this office that the City of Dallas (the "city") received an open records request for "the Dallas Police Department Service Number# 00616777-Z." You requested an attorney general decision relating to this request on November 2, 1995. In your request for an open records decision you contended that the requested information was excepted from required public disclosure under section 552.108 of the Government Code. You did not, however, submit to our office at that time certain information that is required to be submitted to our office under section 552.301(b). Act of May 29, 1995, 74th Leg., R.S., ch. 1035, § 18, 1995 Tex. Sess. Law Serv. 5139 (Vernon). Specifically, you did not submit a copy of the written open records request that the city received.

Pursuant to section 552.303(c) of the Government Code, *id.* § 19, on November 13, 1995, our office notified you by letter sent via facsimile that you had failed to submit the information required by section 552.301(b). We requested that you provide this information to our office within seven days from the date of receiving the notice.¹ The notice further stated that under section 552.303(e), *id.*, failure to comply would result in the legal presumption that the requested information is public information.

¹You state that the notice this office sent by facsimile communication was "received on November 15, 1995." Although you may not have seen the letter until the 15th, our records of the facsimile transmission indicate that the city received the communication on the day it was sent: November 13, 1995.

Based on the postmark of your most recent correspondence to this office, you did not submit to our office the information that was requested in our November 13, 1995 notice until November 27, 1995, fourteen days after the city received our notice. Therefore, as provided by section 552.303(e), the information that is the subject of this request for information is presumed to be public information. Information that is presumed public must be released unless a governmental body demonstrates a compelling interest to withhold the information to overcome this presumption. *See Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.--Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to Gov't Code § 552.302); Open Records Decision No. 319 (1982).

You have not shown compelling reasons why the information at issue should not be released. Therefore, all records coming within the ambit of the request are presumed to be public and must be released.

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,



Kay H. Guajardo
Assistant Attorney General
Open Records Division

KHG/RWP/ch

Ref.: ID# 36951

Enclosures: Submitted documents

cc: Ms. Tracey Z. Nelson
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