



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 14, 1997

Mr. M. B. Donaldson
Superintendent of Schools
Aldine Independent School District
14910 Aldine-Westfield Road
Houston, Texas 77032

OR97-0062

Dear Mr. Donaldson:

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# 102887.

On September 30, 1996, the Aldine Independent School District (the "school district") received a request for the following information:

[C]urrent information - as of this date - concerning complaints and/or charges against members of the AISD PD. This is to include all incidents whether traffic, personal misconduct, on or off duty problems which are related to the police department.

You assert that the requested information is excepted from required public disclosure based on Government Code sections 552.101, 552.102, 552.103 and 552.108. You did not, however, submit to our office copies of the requested information for our review, as required by section 552.301(b).

Chapter 552 of the Government Code places on the custodian of public records the burden of establishing that records are excepted from public disclosure. Attorney General Opinion H-436 (1974). Section 552.301(b)(3) requires that a governmental body must submit to this office a copy of the specific information requested or representative samples of the information if a voluminous amount of information was requested. Responsive documents or representative samples of responsive documents are required because "[i]n order to determine whether information is subject to a particular exception, this office ordinarily must review the information." Open Records Decision No. 497 (1988) at 4.

Pursuant to section 552.303(c) of the Government Code, on October 28, 1996, our office notified you by 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. The notice further stated that under

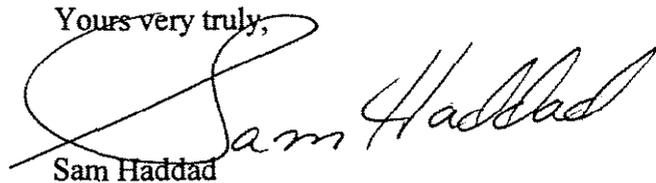
section 552.303(e), failure to comply would result in the legal presumption that the requested information is public information. To date we have not received the requested copies.

Your request for an open records decision remains incomplete. Without the information requested from you, this office is unable to evaluate the exceptions you raised. Consequently, we find that you have not met your burden under sections 552.301 through 552.303 of the act. Open Records Decision No. 195 (1978). 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); Open Records Decision No. 319 (1982). However, we note that information that is confidential by law or that affects third party interests is generally a compelling reason to overcome this presumption. *Id.* If no compelling reason exists as to why the information should not be made public, you must release the information. *Id.*; see also Gov't Code § 552.352 (distribution of confidential information is criminal offense).

We note that when a governmental body is presented with a broad request for information rather than for specific records, it should advise the requestor of the types of information available so that he may narrow his request. Open Records Decisions Nos. 563 (1990), 561 (1990) (governmental body must make good faith effort to relate request to information which it holds). Although you assert that the school district has sought clarification from the requestor regarding the requested information, the request appears sufficiently clear to allow your office to submit to this office for review the specific information or at least a representative sample.

We are resolving this matter with this informal letter ruling rather than with a published open records decision.¹ 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/cbh

¹This office ruled on two related requests to the school district from the same requestor in Open Records Letter Nos. 96-2172 (1996) and 96-2137 (1996). In this ruling, we address only the disclosure of the information responsive to the September 25, 1996 request.

Ref.: ID# 102887

cc: Mr. C. Daniel Hurlbut
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