



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

January 23, 1997

Chief Kenneth R. Yarbrough  
Richardson Police Department  
P.O. Box 831078  
Richardson, Texas 75083-1078

OR97-0133

Dear Chief Yarbrough:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 104198.

The Richardson Police Department (the "department") received a request for 19 categories of information. You claim that the requested information is excepted from disclosure by Government Code sections 552.101, the "informer's privilege," 552.103, the "litigation exception," and 552.108, the "law enforcement" exception.

Pursuant to section 552.301(b), a governmental body is required to submit to this office (1) general written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, and (3) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. You did not, however, submit to this office copies or representative samples of the specific information that was requested.

Pursuant to section 552.303(c) of the Government Code, this office notified you by facsimile dated December 13, 1996, 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 information at issue was presumed public. The fact that submitting copies for review to the Attorney General may be burdensome does not relieve a governmental body of the responsibility of doing so. Open Records Decision No. 497 (1988).

As of the date of this letter you have not provide our office with the information that was requested. 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). *See, e.g.*, Open Records Decision Nos. 586 (1991) (need of another governmental body to withhold requested information may provide compelling reason for nondisclosure), 150 (1977) (presumption of openness overcome by a showing that the information is made confidential by another source of law or affects third party interests).

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, the requested information is presumed public. Open Records Decision No. 195 (1978).

We note, however, that some of the information at issue may be confidential and must not be released by the department. Some kinds of medical information or information indicating disabilities or specific illnesses, for example, is confidential. *See* Open Records Decision Nos. 641 (1996) (information collected under Americans with Disabilities Act is confidential), 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps); *see also* Gov't Code § 552.352 (distribution of confidential information is a criminal offense).

You also explain that you are concerned about the breadth of the request for information at issue. Numerous opinions of this office have addressed situations in which a governmental body has received either an "overbroad" written request for information or a written request for information that the governmental body is unable to identify. Open Records Decision No. 561 (1990) at 8-9 states:

We have stated that a governmental body must make a good faith effort to relate a request to information held by it. Open Records Decision No. 87 (1975). It is nevertheless proper for a governmental body to require a requestor to identify the records sought. Open Records Decision Nos. 304 (1982); 23 (1974). For example, where governmental bodies have been presented with broad requests for information rather than specific records we have stated that the governmental body may advise the requestor of the types of information available so that he may properly narrow his request. Open Records Decision No. 31 (1974).

In response to the request at issue here, the department must make a good-faith effort to relate the request to information in the district's possession and must help the requestor

to clarify his request by advising him of the types of information available. We note that if a request for information is unclear, a governmental body may ask the requestor to clarify the request. Gov't Code § 552.222(b); *see also* Open Records Decision No. 561 (1990) at 8. If you have any questions regarding this matter, please contact our office.

Yours very truly,



Don Ballard  
Assistant Attorney General  
Open Records Division

JDB/ch

Ref: ID# 104198

cc: Mr. Ronald G. DeLord  
President, CLEAT  
2001 Beach Street # 510  
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(w/o enclosures)

