



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 29, 1997

Mr. Ron M. Pigott
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR97-2187

Dear Mr. Pigott:

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# 109039.

The Texas Department of Public Safety received an open records request from Mr. Jay S. Pearlman for records pertaining to a particular motor vehicle accident. In your request for an open records decision, you argued that the requested information was excepted from required public disclosure pursuant to sections 552.103 and 552.108 of the Government Code. Pursuant to section 552.303(c) of the Government Code, on September 12, 1997, our office notified you by letter sent via facsimile that we required additional information as to the pendency of any criminal litigation regarding this matter. 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.

You did not provide our office with the information that was requested in our September 12, 1997 notice to you. Therefore, as provided by section 552.303(e) of the Government Code, the requested information is presumed to be public absent a demonstration that a compelling interest exists for withholding the information. *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).

Because you have not presented this office with compelling reasons for withholding the requested information pursuant to sections 552.103 or 552.108, we deem these exceptions to disclosure as being waived. Consequently, the requested records must be released in their entirety.

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,

A handwritten signature in black ink, appearing to read "Kay Hastings". The signature is written in a cursive, flowing style.

Kay Hastings
Assistant Attorney General
Open Records Division

KHH/RWP/rho

Ref.: ID# 109039

Enclosures: Submitted documents

cc: Mr. Jay S. Pearlman
5225 Katy Freeway, Suite 410
Houston, Texas 77007
(w/o enclosures)