



Office of the Attorney General
State of Texas

December 11, 1997

DAN MORALES
ATTORNEY GENERAL

Mr. Jeffrey D. Herrington
Anderson County Criminal District Attorney
Anderson County Courthouse
500 North Church Street
Palestine, Texas 75801

OR97-2720

Dear Mr. Herrington:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 110984.

The Anderson County Criminal District Attorney's Office (the "district attorney") received a request for a variety of information pertaining to an aggravated kidnapping case. Among the information specifically requested are emergency medical service records of the victim, hospital and medical records of the victim, and information concerning the results of a rape examination performed on the victim. You asked this office if the information requested is protected from disclosure pursuant to section 552.108 of the Government Code.

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, nor did you provide written comments explaining the reasons why the stated exceptions are applicable.

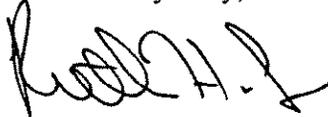
Pursuant to section 552.303(c) of the Government Code, this office notified you by facsimile on October 15, 1997, that you had failed to submit to this office (1) written comments explaining why your stated exception applies to the requested information, and (2) a copy of the information requested, or a representative sample of the information requested. We requested that you supply this information, which is required by section 552.301(b), 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 is presumed public.

You did 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).

We note that some of the information requested appears to be confidential by law and is thus not subject to disclosure to the public. *See* Gov't Code § 552.352 (the distribution of confidential information is a criminal offense). However, as to other information that is not confidential by law, unless you demonstrate that some compelling reason exists as to why this information should not be made public, you must release the non-confidential information.

If you have any questions regarding this matter, please contact this office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref: ID# 110984

cc: Mr. Richard M. Rogers
Route 3, Box 3674
Elkhart, Texas 75839
(w/o enclosures)