



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

January 30, 1998

Mr. John Schneider  
First Assistant City Attorney  
City of Pasadena  
P.O. Box 672  
Pasadena, Texas 77501-0672

OR98-0299

Dear Mr. Schneider:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 112752.

The City of Pasadena (the "city") asked this office to determine whether certain records must be publicly disclosed. The city received a request for a variety of different records, including information about employees, police radar units, traffic citations, and traffic case prosecution. You assert that the information responsive to this request is excepted from disclosure under sections 552.027, 552.101, 552.102, 552.103, 552.108, 552.111, and 552.117 of the Government Code. However, you did not submit to this office copies of the documents requested or representative samples of those documents.

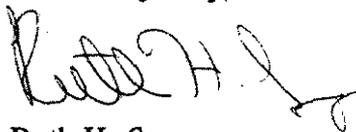
Section 552.301(a) of the Government Code provides that "[a] governmental body that receives a written request for information that it wishes to withhold from public disclosure and that it considers to be within one of the exceptions to disclosure" must ask this office for a decision and state the exceptions that apply. Section 552.301(b) provides that when the governmental body requests a decision from this office, the governmental body must provide 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. In accordance with 552.303(c) of the Government Code, this office notified you by facsimile on January 7, 1998, that you had failed to submit a copy of the specific information requested or a representative sample of the records, as required by section 552.301(b). We requested that you provide a copy of the information requested or a representative sample to our office within seven days from the date of receipt of the facsimile notice. The notice further stated

that, pursuant to section 552.303(e), failure to supply this information would result in the legal presumption that the information at issue is public.

Since you have failed to supply the information needed for this office to render a decision, as provided under section 552.303(e), the information that is the subject of this request for information is presumed to be public. This presumption of openness can be overcome only by a demonstration that the information at issue is confidential by law or that other compelling reasons exist as to why the information should not be made public. 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 also Gov't Code § 552.352 (the distribution of confidential information is a criminal offense). As you have not provided this office with a compelling reason, we have no basis on which to conclude the city may withhold the information at issue.

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# 112752

cc: Mr. J.D. Davis  
Director, American Driver's Association  
200 Gateway Center, Suite 326  
Liberty City, Texas 75662