



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 14, 1998

Ms. Deesha Brown
Assistant City Attorney
Criminal Law & Police Division
1500 Marilla
Dallas, Texas 76201

OR98-3107

Dear Ms. Brown:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID #120560.

The Dallas Police Department received a request for a memorandum from Dallas Assistant City Attorney Janice Moss to Dallas Chief of Police Bennie Click. You contend that the requested information is excepted from required public disclosure by section 552.107 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 a copy of the written request for information.

Pursuant to section 552.303(c) of the Government Code, this office notified you by facsimile dated October 14, 1998 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.

As of the date of this letter you have not provided our office with a copy of the written request for information. 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).¹ 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 and must be released. Open Records Decision No. 195 (1978).

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,



Don Ballard
Assistant Attorney General
Open Records Division

JDB\nc

Ref: ID# 120560

Enclosures: Submitted document

cc: Mr. Lee Bush
c/o Ms. Deesha Brown
Assistant City Attorney
City of Dallas
Municipal Building
Dallas, Texas 75201
(w/o enclosures)

¹Section 552.107 is a discretionary exception and does not provide a compelling reason for non-disclosure. *See* Open Records Decision No. 630 at 6-7 (1994).