



May 3, 1999

Mr. Richard Brown
Assistant City Attorney
Criminal Law and Police Division
City of Dallas
Municipal Building
Dallas, Texas 75201

OR99-1207

Dear Mr. Brown:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 123744.

You inform this office that the Dallas Police Department (the "department") received a request for a police report regarding an aggravated assault. You assert that this report is excepted from disclosure under section 552.108 of the Government Code. You submitted to this office the report you indicate was requested, plus a photocopy of a check and a check stub from State Farm Mutual Automobile Insurance Company that contained notations concerning loss date and time.

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. It was and is unclear to this office whether you are asserting that this is the written request required to be submitted by section 552.301(b)(2). Also, while the check was dated January 8, 1999, there was no indication when it was received. If you were asserting the check to be the written request for information, we needed to know the date it was received for purposes of determining the timeliness of the department's request to this office. Gov't Code § 552.301 (Governmental body request must be made within ten business days of receipt of written request for information).

Pursuant section 552.303(c) of the Government Code, this office notified you by facsimile and explained:

We are in receipt of your facsimile of March 3, 1999. In that correspondence, you included what appears to be a photocopy of a check and its stub from

State Farm Mutual Automobile Insurance Company. Please advise us in writing as to whether this is the entire written request for information. Also, you must submit information showing the date that the written request was received by the city.

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 is public information.

You did not respond to our March 10 notice seeking more information. Section 552.303(e) provides that failure to provide the information requested results in the presumption that the information at issue is public. 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). 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, you must release the information. Open Records Decision No. 195 (1978).¹ As you have not provided any specific compelling reasons to overcome the presumption that the information is public, we conclude that the information must be released to the requestor.

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 on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Sincerely,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/GLG/ch

Ref: ID# 123744

¹We note that the distribution of confidential information is a criminal offense. Gov't Code § 552.352.

encl. Submitted documents

cc: State Farm Mutual Insurance
P.O. Box 8187
Greenville, Texas 75404
(w/o enclosures)