



October 14, 1999

Ms. Barbara G. Heptig  
Assistant City Attorney  
City of Arlington  
P.O. Box 231  
Arlington, Texas 76004-0231

OR99-2925

Dear Ms. Heptig:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 128028.

The Arlington Police Department (the “department”) received requests for “all documents . . . which in any way relate to ESCAPADE 2001 - ARLINGTON.” You have provided the requestor with some of the responsive information. However, you contend that the submitted information is excepted from disclosure under section 552.108 of the Government Code.

First, you argue that the request is too vague, and that the department does not have to respond to the request until the requestor identifies specific documents. You further state that you have made “a good faith effort to advise [the requestor] of the type of documents available so that he may narrow his request; however, he has failed to do so, and has repeatedly requested ‘all’ documents.” Section 552.222 of the Government Code permits a governmental body to ask the requestor to clarify or narrow the scope of the request. Section 552.222(b) provides:

If what information is requested is unclear to the governmental body, the governmental body may ask the requestor to clarify the request. If a large amount of information has been requested, the governmental body may discuss with the requestor how the scope of a request might be narrowed, but the governmental body may not inquire into the purpose for which information will be used.

However, a request for records made pursuant to the Public Information Act may not be disregarded simply because a citizen does not specify the exact documents he desires. Open Records Decision No. 87 (1975). Numerous opinions of this office have addressed situations in which a governmental body has received either an “overbroad” written request for

information or a written request for information that the governmental body is unable to identify or understand. Open Records Decision No. 561 at 8-9 (1990) states:

We have stated that a governmental body must make a good faith effort to relate a request to information held by it. Open Records Decision No. 87 (1975). It is nevertheless proper for a governmental body to require a requestor to identify the records sought. Open Records Decision Nos. 304 (1982); 23 (1974). For example, where governmental bodies have been presented with broad requests for information rather than specific records we have stated that the governmental body may advise the requestor of the types of information available so that he may properly narrow his request. Open Records Decision No. 31 (1974).

Therefore, in response to the request at issue here, the department must make a good faith effort to relate the request to information in the department's possession and must help the requestor to clarify his request by advising him of the types of information available.

You state that you have made a good faith effort to provide the responsive information and to advise the requestor of the types of information the department has responsive to his request. The department received the first request on June 3, 1999 and provided the requestor with some responsive information on June 22, 1999. In his second requests, received by the department on June 25 and 26, the requestor reiterates that he wants all documents relating to Escapade 2001. The department responded by producing more responsive information on June 29 and 30. However, the requestor does not believe that the department had provided all responsive information; therefore, he submitted a third request, received by the department on July 6, wherein he again reiterates that he wants all documents relating to Escapade 2001. The department's response after each request was to provide additional information in its possession responsive to the original request for all documents.

Although section 552.222 allows the department to ask the requestor to narrow the scope of his request, section 552.222 does not relieve the department from seeking a timely request for a decision from this office or relieve the department of its duty to comply with the request. As we stated above, a request for records made pursuant to the Public Information Act may not be disregarded simply because a citizen does not specify the exact documents he desires. Open Records Decision No. 87 (1975). We believe that the requestor was clear in his second request that he does not wish to narrow his scope, but that he in fact wants all documents in the department's possession relating to Escapade 2001. The department received the second request on June 25. However, this office did not receive the department's request for a decision until July 19, 1999, more than ten business days after the department's receipt of the written request for information. Consequently, you failed to request a decision within the ten-business days required by section 552.301(a) of the Government Code.

Sections 552.301 and 552.302 of the Government Code require a governmental body to release requested information or to request a decision from the attorney general within ten business days of receiving a request for information the governmental body wishes to withhold. When a governmental body fails to request a decision within ten business days of receiving a request for information, the information at issue is presumed public. *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379 (Tex. App.--Austin 1990, no writ); *City of Houston v. Houston Chronicle Publ'g Co.*, 673 S.W.2d 316, 323 (Tex. App.--Houston [1st Dist.] 1984, no writ); Open Records Decision No. 319 (1982). The governmental body must show a compelling interest to withhold the information to overcome this presumption. Gov't Code § 552.302.

You have not shown compelling reasons as to why the information should not be made public. Thus, you must release the submitted information. Moreover, we note that your first response to the requestor states that you had released certain offense reports to the requestor, but that you were withholding offense report numbers 991020058 and 990870086 because they are pending cases. We are not aware of any requests for a decision from the department to withhold these two offense reports. Section 552.301 of the Government Code requires a governmental body to request a decision from the attorney general if it wishes to withhold requested information. Because you have not requested a decision from the attorney general regarding the department's withholding of the two offense reports, you must release the offense reports to the requestor absent a compelling reason to withhold the information. We caution that section 552.352 of the Government Code imposes criminal penalties for the release of confidential information.

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.

Sincerely,



Yen-Ha Le  
Assistant Attorney General  
Open Records Division

YHL/nc

Ref: ID# 128028

cc: Mr. James W. Lee, III  
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(w/o enclosures)