



December 8, 1999

Mr. Walter W. Leonard  
Attorney at Law  
One Summit Avenue  
Suite 1010  
Fort Worth, Texas 76102

OR99-3559

Dear Mr. Leonard:

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# 131301.

The City of Sansom Park received a request for all documents relating to a traffic stop and any other police reports involving a particular person. You request us to determine whether the information is protected from disclosure under section 552.108(a) of the Government Code.

Pursuant to section 552.301(e), a governmental body is required to submit to this office within fifteen business days of receiving an open records request (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, (3) a signed statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. Act of May 25, 1999, 76th Leg., R.S., ch. 1319, § 20, 1999 Tex. Sess. Law Serv. 4500, 4508 (Vernon) (to be codified as an amendment to Gov't Code § 552.301(e)).

In your letter to the requestor, you reference two informal communications to the police chief from the officers on the scene of the traffic stop. You inform the requestor that you are going to consult this office about the disclosure of this information. Further, in your letter of

November 12, 1999, you argue that the documents in question are “ad hoc police reports.” However, you have only provided this office with a copy of the radio log, which we assume is the document you refer to as the “police log,” which you claim you have already released to the requestor. You have not provided us with copies of the documents that contain the informal communications or documents resembling police reports. Thus, you have failed to provide this office with a copy of all of the specific documents requested and to which you claim an exception under section 552.108(a)(2).

Pursuant to section 552.302 of the Government Code, a governmental body’s failure to submit to this office the information required in section 552.301(e) results in the legal presumption that the information is public and must be released. Act of May 25, 1999, 76th Leg., R.S., ch. 1319, § 21, 1999 Tex. Sess. Law Serv. 4500, 4509 (Vernon) (to be codified as an amendment to Gov’t Code § 552.302). Information that is presumed public must be released unless a governmental body demonstrates a compelling reason 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). You have not shown such a compelling interest to overcome the presumption that the information at issue is public. Accordingly, you must release the requested information. We caution that the distribution of confidential information constitutes a criminal offense. Gov’t Code § 552.352.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

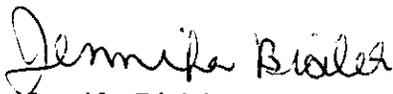
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be

provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Jennifer Bialek  
Assistant Attorney General  
Open Records Division

JHB/cwt

Ref: ID# 131301

Encl. Submitted documents  
cc: Deborah Ferguson, Reporter  
NBC 5/KXAS-TV  
3900 Harry Hines Boulevard  
Dallas, Texas 75219  
(w/o enclosures)