



**THE ATTORNEY GENERAL  
OF TEXAS**

**JIM MATTOX  
ATTORNEY GENERAL**

April 11, 1989

Mr. Wallace Shaw  
City Attorney  
City of Clute  
P. O. Box 997  
Clute, Texas 77531

Dear Mr. Shaw:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 5496; this decision is OR89-107.

Under the Open Records Act, all information held by governmental bodies is open unless the information falls within one of the act's specific exceptions to disclosure. The act places on the custodian of records the burden of proving that records are excepted from public disclosure. If a governmental body fails to claim an exception, the exception is ordinarily waived unless the information is deemed confidential under the act. See Attorney General Opinion JM-672 (1987). The act does not require this office to raise and consider exceptions that you have not raised.

The City of Clute received a request from the Houston Chronicle and the Brazosport Facts for information involving an internal investigation of a police incident, including the names of the complainants and officers involved, the complaint made, the officers' written response, factual information relating to the disciplinary action taken, and the final disposition of the investigation. You have submitted documents showing that the Federal Bureau of Investigation is presently conducting an investigation into the incident, with the possible result of a civil rights suit against the city. You have released to the newspapers the names of the investigating officer and the officers involved in the incident. You claim that the remainder of this information is protected from public disclosure under sections 3(a)(1), 3(a)(3), 3(a)(8), and 3(a)(17) of the Open Records Act.

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The attorney general has ruled in several opinions that certain basic facts about complaints against law enforcement officers are available to the public, including the names of the officers and complainants, the nature of the complaint, and the disposition by the law enforcement agency. Open Records Decision Nos. 484 (1987); 208 (1978). See generally Open Records Decision Nos. 397 (1983); 350, 329 (1982). This information is not excepted by sections 3(a)(3) or 3(a)(8) of the act. Open Records Decision No. 208 (copy enclosed). Thus, you must release the names of the complainants, the nature of the complaint, and the disciplinary action taken by the department.

Section 3(a)(8) of the Open Records Act controls of the remainder of the information. This exception protects "records of law enforcement agencies . . . which are maintained for internal use in matters relating to law enforcement and prosecution." Section 3(a)(8) applies when release of the information will unduly interfere with law enforcement and crime prevention. Ex parte Pruitt, 551 S.W.2d 706 (Tex. 1977). You indicate that the information in question is part of an on-going investigation by the FBI. Because its release could conceivably hamper their investigation, the information may be withheld until the investigation is completed. See generally Open Records Decision Nos. 350; 340 (1982).

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR89-107.

Yours very truly,

*Open Government Section*  
*of the Opinion Committee* 

Open Government Section  
of the Opinion Committee  
Prepared by Jennifer S. Riggs  
Chief, Open Government Section

JSR/BLS/bc

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cc: John Toth  
Houston Chronicle  
P. O. Box 96  
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Jesse Miller  
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Enclosure: ORD-208

Ref.: ID# 5637  
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