



**THE ATTORNEY GENERAL  
OF TEXAS**

**JIM MATTOX  
ATTORNEY GENERAL**

July 13, 1989

Mr. Gerald Hartley  
City Manager  
City of Bowie  
304 Lindsey  
Bowie, Texas 76230

Dear Mr. Hartley:

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# 6632; this decision is OR89-202.

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 Bowie received a request for information about disciplinary action taken against a city policeman. The "disciplinary" action at issue arose from an accident involving the officer's use of his patrol car. The information at issue consists of an "Employee Warning Notice," a brief factual summary of the accident review board's interview with the officer, a Department of Public Safety accident report form, a diagram of the scene of the accident, a Bowie Police Department "Offense/Incident Report," an invoice for damage to the police vehicle, and a notice of the accident review board's meeting.

You do not raise specific exceptions to disclosure that might apply. When a governmental body fails to raise specific exceptions to disclosure, this office will consider only whether any law prohibits the release of records, not

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whether any exception to the Open Records Act grants the governmental body discretion to withhold records.

Section 3(a)(1) of the Open Records Act protects:

information deemed confidential by law,  
either Constitutional, statutory, or by  
judicial decision.

None of the information at issue is protected by section 3(a)(1).

In fact, the standard accident report form of the Department of Public Safety expressly is made public by statute. See Open Records Decision No. 43 (1974) (copy enclosed). Similarly, section 6(3) of the Open Records Act expressly makes public information about the expenditure of public funds. Although this section does not override the act's exceptions, it makes it less likely that they will apply. Numerous open records decisions indicate that basic factual information about disciplinary action taken against public employees is public. See Open Records Decision Nos. 315 (1982); 181 (1977) 106 (1975); see also Open Records Decision No. 208 (1978). Moreover, the relatively minor incident at issue here does not raise the issues that could be involved in an accident involving a third party rather than a utility pole. See generally Open Records Decision No. 251 (1980). The information must be released.

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 OR89-202.

Yours very truly,

*Open Government Section  
of the Opinion Committee*

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

JSR/bc

Ref.: ID# 6632