



**THE ATTORNEY GENERAL
OF TEXAS**

**JIM MATTOX
ATTORNEY GENERAL**

October 10, 1989

Mr. Parus E. Dudley
Chief of Police
City of Garden Ridge
Route 20, Box 508
San Antonio, Texas 78218

Dear Mr. Dudley:

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# 7592; this decision is OR89-332.

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 Garden Ridge Police Department received an open records request for all records relating to a United States Justice Department investigation of a Garden Ridge police officer who was accused of a criminal civil rights violation. You submitted to this office copies of an offense report, a criminal suspect's criminal history, and various witness statements. Of these records, only the criminal history is information deemed confidential by law. See Houston Chronicle Publishing Co. v. City of Houston, 531 S.W.2d 177 (Tex. Civ. App. - Houston: [14th Dist.] 1975), writ ref'd n.r.e. per curiam, 536 S.W.2d 559 (Tex. 1976). You do not contend that any of the act's exceptions to required public disclosure protect the remaining information; this information must therefore be released.

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We note that you failed to submit to this office other information requested by Ms. Adams, such as records of any internal investigation of the alleged civil rights violation and correspondence between your office and the Department of Justice, the Federal Bureau of Investigation, and the Texas Attorney General's office since January 1, 1987. If these records exist, they are now deemed public and must be released without delay. See V.T.C.S. art. 6252-17a, 7(a).

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 OR89-332.

Yours very truly,

*Open Government Section
of the Opinion Committee*
Open Government Section
of the Opinion Committee
Approved by David A. Newton
Assistant Attorney General

DAN/RWP/bc

cc: Ms. Lorraine Adams
Staff Writer
The Dallas Morning News
Communications Center
Dallas, Texas 75265

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