



THE ATTORNEY GENERAL  
OF TEXAS

JIM MATTOX  
ATTORNEY GENERAL

November 29, 1989

Mr. J. Sage White  
Assistant City Attorney  
City of Austin  
P.O. Box 1088  
Austin, Texas 78767-8828

Dear Mr. White:

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# 7566; this decision is OR89-408.

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. Attorney General Opinion H-436 (1974). 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 Austin received a request for all information in its police department's files concerning an investigation that led to the forgery conviction of an individual who later died. The city claims that sections 3(a)(1) and 3(a)(8) of the Open Records Act protect the information from required public disclosure.

Section 3(a)(8), the "law enforcement" exception, protects information when its release would unduly interfere with law enforcement and crime prevention. See Ex parte Pruitt, 551 S.W.2d 706 (Tex. 1977). In 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), the court held that certain detailed investigative information appearing in active offense reports could be withheld because release of

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the information could impair the police department's investigative efforts. The decision, however, was based on the city's claims that release of the information would impair active investigations. You have not shown how release of the information at issue would interfere with your prosecution of the decedent. Moreover, although this office has held that detailed descriptions of law enforcement techniques may be withheld, see Open Records Decision No. 531 (1989), none of the information you submitted for review describes or reveals law enforcement techniques.

You also claim that section 3(a)(1) protects certain financial information in the investigative file. See Open Records Decision No. 455 (1987). This concern can be satisfied by deleting the victims' names, social security numbers, and account numbers from the statements at issue. The remainder of 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 OR89-408.

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

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Ref.: ID# 7566

cc: David M. Grassbaugh  
Attorney  
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