



# CHAD COWAN

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May 14, 1999

*RQ-0066-JC*

Honorable John Cornyn  
Attorney General of Texas  
C/o Liz Robinson  
Chair – Opinion Committee  
P.O. Box 12548  
Austin, Texas 78711-2548

RECEIVED

MAY 19 1999

FILE # ML-408.39-99 Opinion Committee  
I.D. # 408.39

Dear Attorney General:

I am the county attorney for Jones County and by this letter and attached memo I am requesting an Attorney General's Opinion on whether an individual otherwise entitled to attend a Closed Meeting may obtain a tape of that Closed Meeting if the individual did not attend the meeting. There are other related questions I request an opinion on, as well and they are set out in the attached memo. Please contact me if there is anything else needed.

Signed

A handwritten signature in black ink, appearing to be "Chad Cowan".

Chad Cowan

Encl.

**MEMO**

**TO:** John Cornyn  
Attorney General, State of Texas

**FROM:** Chad Cowan  
Jones County Attorney

**RE:** Open Records Request for Transcript/Tape of Executive Session Discussions

**DATE:** May 14, 1999

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**FACTS:** The City of Lueders, Texas, convened a City Council meeting that was duly noticed and posted as provided by law. One item on the agenda included the Councilmen going into executive session (Closed Meeting) to discuss an item that the law allows be discussed in executive session. One of the councilwomen was not present because she was out of town. She did not attend the meeting, although she could have, and thus, did not attend the executive session. Upon the councilwoman's return, she requested a copy of the tape or transcript of the executive session. After counsel with the city attorney, the City refused to turn over a copy of the tape to the councilwoman citing the fact that they are prohibited from turning it over because statute prohibits this and could subject them to penalties and civil liability. Note that the councilwoman made the request for the tape while she was on the Council but is not currently on the Council.

**ISSUE:** If an individual, as in this case, is otherwise allowed to attend a Closed Meeting (executive session) but does not attend, can that person request a copy of the transcript or tape of the Closed Meeting and is the entity that held the Closed Meeting required to provide a copy of the tape or transcript to only that individual? If the person made the request for a copy while on the Council but is not currently on the Council, does this affect your opinion?

**LAW:** Section 552.002 of the Texas Government Code states that every called meeting of a governmental body shall be open to the public, except as provided by this chapter. The minutes of an open meeting must be kept or a tape recording made and such minutes or tape are considered a matter of public record and must be made available for public inspection. TEX. GOV'T CODE ANN. §§ 551.021, 551.022 (Vernon 1999). Closed Meetings (also known as executive session) are allowed if the items discussed are excepted from the Open Meetings Act. The law further states that a tape recording of a Closed Meeting is available for public inspection *only* under a court order (emphasis added). § 551.104. An individual that knowingly discloses a tape recording of a closed meeting is subject to certain penalties including a potential Class B misdemeanor as well as civil penalties. § 551.146.