



**THE ATTORNEY GENERAL  
OF TEXAS**

January 12, 1989

**JIM MATTOX  
ATTORNEY GENERAL**

James Showen  
Assistant City Attorney  
Legal Department  
P. O. Box 2039  
Tyler, Texas 75710

Dear Mr. Showen:

This will acknowledge receipt of your letter of December 12, 1988, regarding an open records request received by the Tyler Police Department. Your letter has been assigned ID# 5175. This decision is OR89-014.

You ask, in effect, whether you can rely on Open Records Decision No. 144 (1976) to withhold arrest information held by the National Crime Information Center (NCIC). The police department does not have, at this time, the requested information. The Open Records Act does not require a governmental body to obtain information that is not in its possession. Open Records Decision Nos. 445 (1986); 317 (1982). Further, once NCIC information is obtained, it may be withheld under section 3(a)(1) as indicated in Open Records Decision No. 144.

Additionally, you ask whether you may withhold the name, address, and telephone number of the complaining witness under the informer's privilege aspect of section 3(a)(1). This information may be deleted from the arrest report. If, however, the witness's name is known to the person complained of (i.e. through testimony in court), it may not be withheld from further disclosure.

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 OR89-014.

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/bc

James Showen  
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