



**THE ATTORNEY GENERAL
OF TEXAS**

**JIM MATTOX
ATTORNEY GENERAL**

January 17, 1989

Fred Rodriguez
Criminal District Attorney
Bexar County
County Courthouse
San Antonio, Texas 78205

Re: ID# 4998

Dear Mr. Rodriguez:

This office previously notified you that we received a letter from Mr. Milton Milburn asking this office for assistance under the Open Records Act, article 6252-17a, V.T.C.S. In our letter to you, ID# 4998, we requested that you submit copies of documents requested by Mr. Milburn to this office within ten days of your receipt of the letter, with the caveat that your failure to do so would result in the waiver of the act's exceptions to required public disclosure. This letter has been designated OR89-031.

You received ID# 4998 on December 16, 1988. More than 10 days have elapsed since your receipt of that letter, but you have failed to provide this office with copies of the requested documents or your arguments as to why they should not be released.

Section 7(a) of the Open Records Act, article 6252-17a, V.T.C.S., provides:

If a governmental body receives a written request for information which it considers within one of the exceptions stated in Section 3 of this Act, but there has been no previous determination that it falls within one of the exceptions, the governmental body within a reasonable time, no later than ten days, after receiving a written request must request a decision from the attorney general to determine whether the information is within that exception. If a decision is not so requested, the information shall be presumed to be public information. (Emphasis added.)

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Section 7(a) of the act requires a governmental body to release requested information or to request a decision from the attorney general within 10 days of receiving a request for information the governmental body wishes to withhold. In placing a time limit on the production of public information, the legislature recognized the value of timely production of public information. See also Art. 6252-17a, section 4 (shall "promptly" produce public information), section 13 (may promulgate rules to ensure that "public records may be inspected efficiently, safely, and without delay").

When a governmental body fails to request a decision within 10 days of receiving a request for information, the information at issue is presumed public. City of Houston v. Houston Chronicle Publishing Company, 673 S.W.2d 316, 323 (Tex. App. - Houston [1st Dist.] 1984, no writ); Open Records Decision No. 319 (1982). The governmental body must show a compelling interest to withhold the information to overcome this presumption. Open Records Decision No. 319.

You have not shown compelling reasons why the information at issue should not be released. The information is presumed public information and must be released. Please be advised that failure to provide information that the attorney general has determined to be public may give rise to an action for a writ of mandamus pursuant to section 8 of the Open Records Act or to criminal sanctions under section 10 of the act.

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 OR89-031.

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/RWP/bc

Copies to: Milton Milburn
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Ref: ID# 4998