



**THE ATTORNEY GENERAL  
OF TEXAS**

**JIM MATTOX  
ATTORNEY GENERAL**

April 25, 1989

Mr. Art Pertile, III  
Assistant City Attorney  
City of Waco  
P. O. Box 2570  
Waco, Texas 76702-2570

Dear Mr. Pertile:

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# 5473; this decision is OR89-136.

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 City of Waco has received a request from Mr. Mark England, reporter for the Waco Tribune-Herald, for "any memorandums, letters, documents or tapes" stating the hours and wages of an attorney hired by the City of Waco. The requestor asks both for the hours already accrued and for this information as it accrues in the future. You claim that this information is excepted from public disclosure by section 3(a)(1) of the Open Records Act through the attorney-client privilege.

This request is controlled by Open Records Decision No. 499 (1988) (copy enclosed). In this opinion, the attorney general ruled that, as a general rule, information held by private attorneys hired by governmental entities is public information. You have not submitted information demonstrating any special circumstances in this case.

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Therefore, unless the information is protected by one of the exceptions to the Open Records Act, it must be released by the law firm.

Open Records Decision No. 499 also discussed the applicability of section 3(a)(1) to attorneys bills. Detailed billing which would reveal legal strategy may be withheld. Id. See Open Records Decision Nos. 399 (1983); 304 (1982). However, you may not withhold the amount of the billing or contracts discussing the hourly rate or billing. This information must be released, with the protected details deleted.

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 OR89-136.

Yours very truly,  
*Open Government Section*  
*of the Opinion Committee*

Open Government Section  
of the Opinion Committee  
Prepared by Steve Aragon  
Assistant Attorney General

SA/BLS/bc

cc: Mark England  
Waco Tribune Herald  
P. O. Box 2588  
Waco, Texas 76702-2588

Enclosure: ORD-499

Ref.: ID# 5473  
5489