



**THE ATTORNEY GENERAL  
OF TEXAS**

August 23, 1989

**JIM MATTOX  
ATTORNEY GENERAL**

Ms. Mary Ann Courter  
Legal Counsel  
Texas Department of Public Safety  
P. O. Box 4087  
Austin, Texas 78773-0001

Dear Ms. Courter:

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# 7157; this decision is OR89-268.

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.)

You received a request for information under the Open Records Act on July 19, 1989. You requested a decision from this office on August 7, 1989. Consequently, you failed to request a decision within the 10 days required by section 7(a).

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

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production of public information. See also V.T.C.S. art. 6252-17a, §§ 4 (governmental bodies shall "promptly" produce public information), 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 Co., 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.

The information consists of photographs of the scene of an accident. You state that there still exists a possibility of filing criminal charges for involuntary manslaughter or criminally negligent homicide. This statement and the nature of information at issue do not justify withholding the information. You have not shown how release of the information would unduly interfere with law enforcement and crime prevention.

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 OR89-268.

Yours very truly,

*Open Government Section*  
*of the Opinion Committee*  
Open Government Section  
of the Opinion Committee  
Approved by Jennifer S. Riggs  
Chief, Open Government Section

JSR/RWP/bc

Ref.: ID# 7157