



**THE ATTORNEY GENERAL  
OF TEXAS**

**JIM MATTOX  
ATTORNEY GENERAL**

August 23, 1989

Mr. Charlie F. McNabb  
First Assistant City Attorney  
The City of El Paso  
2 Civic Center Plaza  
El Paso, Texas 79999

Dear Mr. McNabb:

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# 7163; this decision is OR89-274.

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 El Paso received an open records request for a particular Emergency Medical System Patient Report. You state that although the city normally releases this type of report as public information, you seek to withhold the requested report because it contains information protected by the common-law right to privacy. See V.T.C.S. art. 6252-17a, § 3(a)(1).

Open Records Decision No. 370 (1983) governs your request. You should, therefore, withhold the information coming within the protection of section 3(a)(1). We have marked those portions of the report that you must withhold; you must release the remaining information.

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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 OR89-274.

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

Open Government Section  
of the Opinion Committee  
Approved by David A. Newton  
Assistant Attorney General

DAN/RWP/bc

Ref.: ID# 7163

cc: Mr. Walter O. Wade  
P. O. Box 3836  
El Paso, Texas 79923

Enclosure: Marked Document