



**THE ATTORNEY GENERAL  
OF TEXAS**

August 23, 1989

**JIM MATTOX  
ATTORNEY GENERAL**

Mr. Donald R. Maddox  
Chief of Police  
Humble Police Department  
310 Bender Ave.  
Humble, Texas 77338

Dear Mr. Maddox:

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# 7181; this decision is OR89-275.

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 Humble Police Department received an open records request for the front page of burglary offense reports. You contend that the requestor, who works for a home security business, intends to use these records in order to send the burglary victims "sales letters" and that the release of these records would constitute an unwarranted invasion of personal privacy.

Your request is governed by Open Records Decision No. 409 (1984), which held that the identities of burglary victims are not protected by the common-law right to privacy. The requested information is public and must be released.

Please note, however, that Senate Bill 62 of the first called Special Session of the 71st Legislature, which amends section 35.54 of the Business and Commerce Code and is effective immediately, prohibits persons who obtain this information from law enforcement agencies from using the information in order to contact a crime victim or a member

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of the victim's family for the purpose of soliciting business from the victim or family member. This does not, however, make the information "confidential" under the Open Records 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 OR89-275.

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/RWP/bc

Ref.: ID# 7181

cc: Mr. Sonnie Madere  
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