



**THE ATTORNEY GENERAL
OF TEXAS**

September 25, 1989

**JIM MATTOX
ATTORNEY GENERAL**

Mr. Michael A. Moss
Ms. Susan T. Taylor
Legal Department
City of Houston
P. O. Box 1562
Houston, Texas 77251-1562

Dear Mr. Moss and Ms. Taylor:

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# 5987; this decision is OR89-309.

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 Houston has received a request for copies of an offense report and an arrest report on a person named in the request. You contend these reports are excepted from public disclosure by section 3(a)(8) of the act which protects

records of law enforcement agencies and prosecutors that deal with the detection, investigation, and prosecution of crime and the internal records and notations of such law enforcement agencies and prosecutors which are maintained for internal use in matters relating to law enforcement and prosecution.

The test for determining whether section 3(a)(8) shields information from disclosure is whether such disclosure would unduly interfere with law enforcement and

Mr. Michael A. Moss
Ms. Susan T. Taylor
September 25, 1989
Page 2

crime prevention. See Ex parte Pruitt, 551 S.W.2d 706 (Tex. 1977). A governmental body must demonstrate that release of the requested information is likely to have this effect unless the information supplies the explanation on its face. See Open Records Decision No. 287 (1981).

You inform us that the investigation into this particular offense is closed and that the defendant later pleaded guilty to the offense. You also express concern that release of the information here will have a chilling effect on persons who might otherwise be willing to cooperate with police investigators and on the police officers who complete these reports. The reports submitted for our review, however, reveal that there were no witnesses to the offense in question. Furthermore, the detailed description of an offense contained in an offense report has been held to be information that is generally available to the public. Open Records Decision No. 127 (1976). The reports therefore are public information that must be made available to the requestor.

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 OR89-309.

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/bc

Ref.: ID# 5987