



THE ATTORNEY GENERAL
OF TEXAS

JIM MATTOX
ATTORNEY GENERAL

November 21, 1989

Mr. Kevin S. Casey
Assistant City Attorney
City of Pasadena
P.O. Box 672
Pasadena, Texas 77501

Dear Mr. Casey:

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# 7486; this decision is OR89-398.

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. Attorney General Opinion H-436 (1974). 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 Pasadena Municipal Court received an open records request for "the name, address and telephone number of every individual who has received a traffic citation from the City of Pasadena Police Department since August 21, 1989." In Open Records Decision No. 274 (1981), this office held that although records of the municipal court are not subject to the Open Records Act, see V.T.C.S. art. 6252-17a, § 2(1)(G), the clerk of a municipal court of record is required to perform the same duties as those prescribed by law for the county clerk of a county court at law, including providing public access to all records belonging to the clerk at any time.

You contend that Open Records Decision No. 274 is inapplicable here because the Pasadena Municipal Court is not a "court of record." We note, however, that Government

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Code section 29.010 provides that the clerks of municipal courts, regardless of whether they are courts of record, must "generally perform the duties for the municipal court that a county clerk performs for a county court." The records sought by the requestor must be made available to him and to the general public. See Local Gov't Code § 191.006.

The cost or difficulty of compliance does not control whether information should be made available. You may, however, allow the requestor to inspect the original records to save copying time. Additionally, if the requestor insists on obtaining copies, he ordinarily must pay for the cost of reproducing the records, unless you determine that providing copies at no cost would be in the public interest.

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 OR89-398.

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/le

Ref.: ID# 7486

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