



**THE ATTORNEY GENERAL
OF TEXAS**

**JIM MATTOX
ATTORNEY GENERAL**

December 27, 1989

Mr. Richard Fulcher
Acting Executive Director
Texas Industrial Accident Board
200 East Riverside, 1st Floor
Austin, Texas 78704-1287

Dear Mr. Fulcher:

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# 8190; this decision is OR89-433.

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 Texas Industrial Accident Board received an open records request for "any existing documents that set out attorneys fees paid for representation in the workers compensation system for the most recent fiscal year for which such a compilation of information is available." You submitted to this office for review three lists that come within the ambit of the open records request. List 1 contains the names of 200 attorneys representing claimants before the board, matched with the total amount of fees each attorney received in Fiscal Year 1988. List 2 contains the identical information as List 1 with the names of the attorneys deleted. List 3 consists of the names of the attorneys found in List 1, matched with the average amount of lump sum settlements obtained by each in Fiscal Year 1988.

Mr. Richard Fulcher
December 27, 1989
Page 2

We have considered the exceptions you claimed and reviewed the documents at issue. Your request for an open records decision falls within a previous determination of this office, Attorney General Opinion MW-202 (1980), a copy of which is enclosed. Because List 2 consists of the public information contained in List 1, you may withhold List 1 and release List 2. You may withhold the names of the attorneys contained in List 3, but the remaining statistical information in that list must be released.

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 OR89-433.

Yours very truly,

*Open Government Section
of the Opinion Committee*
Open Government Section
of the Opinion Committee
Approved by Susan Garrison
Assistant Attorney General

S.G.

SG/RWP/le

Ref.: ID# 8190

Enclosure: MW-202 (1980)

cc: James M. Cullen
Reporter
Hearst Newspaper
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