



THE ATTORNEY GENERAL
OF TEXAS

JIM MATTOX
ATTORNEY GENERAL

February 9, 1990

Mr. John C. West, Jr.
Chief, Legal Services
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

Dear Mr. West:

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# 6937; this decision is OR90-057.

The information in question is a video tape representation of the scene of a fatal accident that occurred on June 20, 1989. The tape includes a photographic representation of several peace officers, and you point out that this information appears to be excepted from public disclosure by section 3(a)(19) of the Open Records Act.

We agree that section 3(a)(19) protects the video tape representations of peace officers from public disclosure. See Open Records Decision No. 502 (1988). In OR89-432 addressed to Mary Ann Courter of your office, we addressed a similar matter and determined that you were authorized to withhold video tapes that depicted peace officers at the scene of a fatal motorcycle/automobile accident. The conclusion of OR89-432 applies to this video tape as well. Section 3(a)(19) removes from the custodian of photographs the discretion to release them, and you may not release the unedited video tape unless one of the circumstances set out in subsections (A) through (C) exists. See Open Records Decision No. 502. Moreover, if the excludable material is inextricably intertwined with the disclosable information, or if there are severe practical difficulties in editing the tape, the tape may be withheld in its entirety. See Open Records Decision No. 364 (1983).

You also point out that your request for a ruling did not meet the ten-day deadline set out in section 7(a) of the Open Records Act. Since the custodian of photographs has no

discretion to release them, we do not believe that section 3(a)(19) can be waived by failure to meet the ten-day deadline.

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 OR90-057.

Yours very truly,



Susan Garrison
Assistant Attorney General
Opinion Committee

SG/le

Ref.: ID# 6937

Enclosure: ORD-364, OR89-432