



Office of the Attorney General

State of Texas

April 5, 1993

DAN MORALES

ATTORNEY GENERAL

Mr. Ray R. Ortiz  
City of Victoria  
P.O. Box 1758  
Victoria, Texas 77902-1758

OR93-162

Dear Mr. Ortiz:

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# 18814.

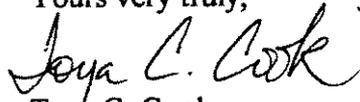
The City of Victoria (the "city") has received a request for a certain police investigative report and incident reports. Specifically, the requestor seeks "a copy of the police report written by the Victoria City Police, as well as the investigating officer's incident reports and the dispatcher's tape," "regarding the claim made by Anastacio and Sylvia Escobar against the City of Victoria, as well as other law enforcement agencies." Section 7(a) of the Open Records Act requires a governmental body to release requested information or to request a decision from the attorney general *within ten days of receiving a request for information* the governmental body wishes to withhold. You received the request for information under the Open Records Act on January 13, 1993. We received your request for a decision February 2, 1992. Consequently, you failed to request a decision within the ten days required by section 7(a) of the act.

When a governmental body fails to request a decision within ten days of receiving a request for information, the information at issue is presumed public. *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379 (Tex. App.--Austin 1990, no writ); *City of Houston v. Houston Chronicle Publishing Co.*, 673 S.W.2d 316, 323 (Tex. App.--Houston [1st Dist.] 1984, no writ); Open Records Decision No. 319 (1982). The governmental body must show a compelling reason to withhold the information to overcome this presumption. *See id.* Normally, the presumption of openness can be overcome only by a compelling demonstration that the information should not be released to the public, *i.e.*, that the information is deemed confidential by some other source of law or that third party interests are at stake. Open Records Decision No. 150 (1977); *see also* Open Records Decision No. 586 (1991) (law enforcement interest of third party may be compelling). You claim that the requested information is excepted from required public disclosure by section 3(a)(3), the "litigation exception." We conclude that you have not made a

compelling demonstration that the information should not be released to the public. Accordingly, the requested information must be released in its entirety.

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 OR93-162.

Yours very truly,



Toya C. Cook  
Assistant Attorney General  
Opinion Committee

TCC/GCK/mc

Ref.: ID# 18814

cc: Ms. Susann Honaker  
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