



THE ATTORNEY GENERAL OF TEXAS

AUSTIN, TEXAS 78711

JOHN L. HILL
ATTORNEY GENERAL

June 3, 1977

Honorable Kenneth D. Gaver, M.D.
Commissioner
Texas Department of Mental
Health/Mental Retardation
P. O. Box 12668
Capitol Station
Austin, Texas 78711

Open Records Decision No. 162
Re: Is Department of Public
Safety investigation report
concerning death of resident
of Mexia State School excepted
from required public disclosure
under Open Records
Act?

Dear Dr. Gaver:

Pursuant to section 7 of the Open Records Act, article 6252-17a, V.T.C.S., you request our decision as to whether an investigation report prepared by the Department of Public Safety concerning the death of a resident of Mexia State School is excepted from required public disclosure under one or more of the following exceptions: section 3(a)(1), 3(a)(2), 3(a)(8), or 3(a)(11).

The purpose of the investigation was to determine whether there was any evidence of crime involved, and the report's conclusion is that there was none.

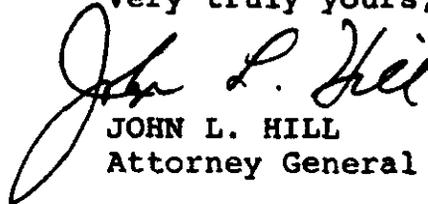
The information requested arguably is excepted from required public disclosure under sections 3(a)(1), 3(a)(8), and 3(a)(2). However, it has been brought to our attention that the report has been made available to a newspaper, and was quoted extensively in a front page article in the Mexia Daily News, March 29, 1977, at 1, col. 1. Section 14(a) of the Open Records Act provides:

(a) This Act does not prohibit any governmental body from voluntarily making part or all of its records available to the public, unless expressly prohibited by law; provided that such records shall then be available to any person.

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Since the information has not in fact been maintained as confidential, it may not be withheld from further disclosure.

Very truly yours,



JOHN L. HILL
Attorney General of Texas

APPROVED:



DAVID M. KENDALL, First Assistant



C. ROBERT HEATH, Chairman
Opinion Committee

kml