



DAN MORALES  
ATTORNEY GENERAL

Office of the Attorney General  
State of Texas

August 13, 1991

Ms. Leah A. Curtis  
Assistant Criminal District Attorney  
Civil Section  
300 Dolorosa, Suite 4049  
San Antonio, Texas 78205-3030

OR91-366

Dear Ms. Curtis:

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# 12540.

You indicate that a requestor seeks information "regarding those who have been arrested and/or detained in the Bexar County Detention Center during the previous twenty-four hours," including "the persons name, home address, what they were arrested for and the date they were arrested." You state that the Bexar County Sheriff's office maintains this information only in a form in which also contains material which is clearly confidential, *e.g.*, various identifying numbers, names of witnesses. Your concern is that separation of the confidential from the disclosable information "would require that the Bexar County Information Services Department create a new computer program."

Attorney General Opinion JM-672 (1987) answers most of the inquiries you pose here. Clearly, *access*, as opposed to *copies*, may not be furnished to a requestor "if a requestor-conducted search cannot be effected without giving the requestor access to information to which the requestor is not entitled." Although the Open Records Act *ordinarily* "does not require the preparation of an extensive new computer program to obtain particular sets of information," it must be determined on a case-by-case basis "[w]hether certain programming constitutes the preparation of new material." Attorney General Opinion JM-672 declares that the Act "may... in some instances, require the preparation of a program to protect or delete confidential material."

In our opinion, this is such an instance. The information sought by the requestor is clearly of a type which has been held to be open at least since the court's decision in *Houston Chronicle Pub. Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), writ ref'd n.r.e., *per curiam*, 536 S.W.2d 559 (Tex. 1976). If this information is stored only in a form which also contains confidential material, it should be extracted from the confidential material and made available to the requestor, even though some computer programming may be required. Of course, as noted in Attorney General Opinion JM-672, "the cost of developing a search pattern to edit out confidential material maintained in computer record banks" may be passed on to the requestor. Such costs should be set "in consultation with the State Purchasing and General Services Commission."

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 OR91-366.

Yours very truly,



Rick Gilpin  
Assistant Attorney General  
Opinion Committee

RG/mc

Ref.: ID# 12540

Enclosure: Attorney General Opinion JM-672 (1987)

cc:Mr. Troy W. McCasland  
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