



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 1, 1992

Mr. Leonard W. Peck, Jr.
Assistant General Counsel
Texas Department of Criminal Justice
Institutional Division
P. O. Box 99
Huntsville, Texas 77342-0099

OR92-289

Dear Mr. Peck:

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# 15661.

The Texas Department of Criminal Justice (the "department") has received a request for any and all information in the possession of the department relating to an inmate currently on death row. Specifically, the request includes, but is not limited to:

"Unit File," "Classification File," and "Central File"; social and disciplinary reports and evaluations; placement and classification records; grievance files; incident reports; injury reports, criminal history documents; social summary documents; school records; and any other documents concerning [the inmate].

You do not object to release of some of the requested information. You claim, however, that portions of the "Statement of Fact" form and the attached Potter County Sheriff's investigation report are excepted from required public disclosure by sections 3(a)(1), 3(a)(8), and 3(a)(11) of the Open Records Act.

Section 3(a)(8) excepts:

records of law enforcement agencies and prosecutors that deal with the detection, investigation, and prosecution of crime and the internal records and notations of such law enforcement agencies and prosecutors which are maintained for internal use in matters relating to law enforcement and prosecution.

When the "law enforcement" exception is claimed as a basis for excluding information from public view, the agency claiming it must reasonably explain, if the information does not supply the explanation on its face, how and why release would unduly interfere with law enforcement. Open Records Decision No. 434 (1986) (citing *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977)); see also Open Records Decision No. 413 (1984) (Department of Corrections is a "law enforcement" agency within the meaning of section 3(a)(8)).

You have submitted to us for review a representative sample of the "factual report," which contains the police investigative report for which the inmate was convicted and sentenced to execution. You claim that the "factual report" is excepted by section 3(a)(8) "because it is facially a law enforcement investigation." You do not explain, however, how and why release of the requested information would unduly interfere with law enforcement, nor does the information supply the explanation on its face. Accordingly, we conclude that the "factual report" may not be withheld from required public disclosure under section 3(a)(8) of the Open Records Act and 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 OR92-289.

Yours very truly,



William Walker
Assistant Attorney General
Opinion Committee

WW/GCK/lmm

Ref: ID# 15661
ID# 15735

cc: Mr. Raoul Schonemann
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