



Office of the Attorney General
State of Texas

June 4, 1992

DAN MORALES
ATTORNEY GENERAL

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

OR92-297

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# 15355.

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 a certain investigation involving a department employee. Specifically, the requestor seeks "all documentation pertaining to the investigation and disciplinary process pertinent to [the requestor's] hearing of February 14, 1992," including, "all handwritten notes, conclusions, IOC's calendars, memos, witness statements, personal interviews, any statements made by the investigating officers, and recommendations by EEOC staff, etc." You have submitted to us for review several witness statements, inter-departmental memoranda, correspondence to persons involved in the investigation, and other documents related to the investigation. You claim that these records are excepted from required public disclosure by sections 3(a)(1) and 3(a)(8) 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 claim that release of the requested information could undermine the security of the prison. We agree. Because release of the requested information would undermine a legitimate interest of law enforcement, we conclude that it may be withheld in its entirety from required public disclosure under section 3(a)(8) of the Open Records Act. As we resolve this matter under section 3(a)(8), we need not address the applicability of section 3(a)(1) at this time.

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 OR92-297.

Yours very truly,



William Walker
Assistant Attorney General
Opinion Committee

WW/GCK/lmm

Ref.: ID# 15355
ID# 15932
ID# 15933

cc: Lieutenant Jeffrey M. May
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