



THE ATTORNEY GENERAL OF TEXAS

AUSTIN, TEXAS 78711

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ATTORNEY GENERAL

October 21, 1974

The Honorable William H. Skelton
Chairman, Board of Pardons and Paroles
Room 711, Stephen F. Austin Bldg.
Austin, Texas 78701

Opinion No. H- 427

Re: Availability under the
Open Records Act of
files of the Board of
Pardons and Paroles

Dear Mr. Skelton:

You have asked whether the Board of Pardons and Paroles is required to make available its files on prisoners to the public and individual members of the Legislature. You have directed our attention to Article 42.12, Sec. 27, V. T. C. C. P., which provides:

All information obtained in connection with inmates of the Texas Department of Corrections subject to parole or executive clemency or individuals who may be on parole and under the supervision of the division, or persons directly identified in any proposed plan of release for a parolee, shall be privileged information and shall not be subject to public inspection; provided, however, that all such information shall be available to the Governor and the Board of Pardons and Paroles upon request. It is further provided, that statistical and general information respecting the parole program and system, including the names of paroled prisoners and data recorded in connection with parole services, shall be subject to public inspection at any reasonable time.

The Open Records Act, Article 6252-17a, V. T. C. S., provides in part that:

Sec. 3. (a) All information collected, assembled, or maintained by governmental bodies pursuant to law or ordinance or in connection with the transaction of official business is public information and available to the public

during normal business hours of any governmental body, with the following exceptions only:

(1) information deemed confidential by law, either Constitutional, statutory, or by judicial decision:

. . .

By virtue of the language of Article 42.12, Sec. 27, V. T. C. C. P., indicating that parole information on inmates is privileged and not subject to inspection by the public, we believe it is information deemed confidential by law and thus not required to be disclosed to members of the public under the Open Records Act.

The Open Records Act also provides:

Sec. 3(a) . . .

(b) This section does not authorize withholding of information or limit the availability of records to the public, except as specifically stated in this section. This section is not authority to withhold information from individual members or committees of the legislature to use for legislative purposes.

Sec. 14(a) . . .

(c) This Act does not give authority to withhold information from individual members or committees of the Legislature of the State of Texas to use for legislative purposes.

In Attorney General Opinion H-353 (1974) we considered these provisions of the Open Records Act. There we decided that while an agency could find no authority in the Open Records Act to deny a legislator's request for information, the Open Records Act did not give legislators access to information made confidential by other statutes. Both provisions of the Open Records Act which discuss legislative access to information are limited by their terms to the Open Records Act and do not support an interpretation that the provisions were intended to affirmatively open material made confidential elsewhere.

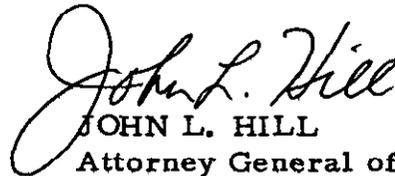
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Due to the limited scope of your inquiry we do not consider the obligation of the Board to comply with a subpoena duces tecum issued by a legislative committee or with a request by a committee to inspect the Board's files. See, The Legislative Reorganization Act of 1961, Article 5429f, Secs. 12 and 18, V. T. C. S.

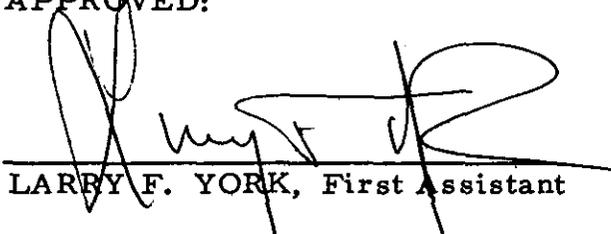
S U M M A R Y

The Open Records Act does not require the Board of Pardons and Paroles to reveal its files on an inmate to an individual legislator.

Very truly yours,


JOHN L. HILL
Attorney General of Texas

APPROVED:


LARRY F. YORK, First Assistant


DAVID M. KENDALL, Chairman
Opinion Committee