



THE ATTORNEY GENERAL OF TEXAS

AUSTIN, TEXAS 78711

JOHN L. HILL
ATTORNEY GENERAL

October 7, 1975

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

Open Records Decision No. 113
Re: Legislator's right of access
under the Open Records Act to
the names of persons who partici-
pated in a research project of the
Texas Research Institute of Mental
Sciences.

Dear Dr. Gaver:

You have requested our decision regarding an individual legislator's right of access under the Open Records Act, article 6252-17a, V. T. C. S., to the names of subjects who participated in a research project of the Texas Research Institute of Mental Sciences, a facility of the Department of Mental Health and Mental Retardation.

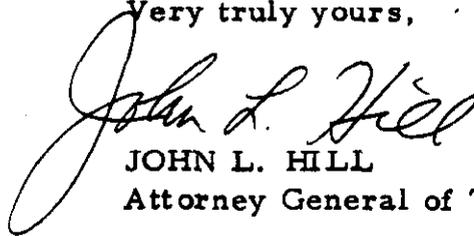
The identity of such persons is expressly made confidential by the Mental Health Code:

The identity of any person whose condition or treatment has been studied shall be kept confidential and shall not be revealed under any circumstances. All information, interviews, reports, statements, memoranda, or other data furnished by reason of this Act and any findings or conclusions resulting from such studies are declared to be privileged. V. T. C. S. art. 5547-202, § 2.23(c).

Although, as we stated in Attorney General Opinion H-353 (1974), sections 3(b) and 14(c) of the Open Records Act indicate that the Act "does not give an agency authority to withhold information from a legislator," the Act nevertheless "does not speak to situations involving information withheld under other statutes." See also Attorney General Opinion H-427 (1974); Open Records Decision No. 44 (1974); Open Records Decision No. 62 (1974). Since

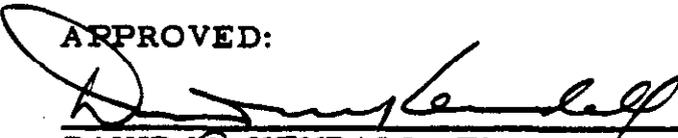
the information sought is made expressly confidential by section 2.23(c) of article 5547-202, the Open Records Act does not require its disclosure to a member of the Legislature. As in Attorney General Opinion H-427 (1974), we do not here consider the obligation of the Department to comply with a subpoena duces tecum issued by a legislative committee or with a request by a committee to inspect the information.

Very truly yours,

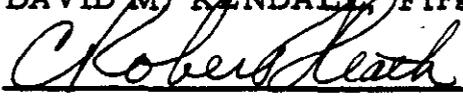


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APPROVED:



DAVID M. KENDALL, First Assistant



C. ROBERT HEATH, Chairman
Opinion Committee

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