



The Attorney General of Texas

December 17, 1981

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Affirmative Action Employer

Mr. W. O. Shultz II
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Open Records Decision No. 294

Re: Availability under the
Open Records Act of corre-
spondence relating to foreign
students at state university

Dear Mr. Shultz:

You have requested our decision regarding the availability under the Open Records Act, article 6252-17a, V.T.C.S., of correspondence relating to foreign students at a state university. Specifically, the request seeks copies of "all wire, cable and teletype traffic between the international office [of the University of Texas] and [the government of] Bahrain during the months of June, July and August, 1980." You suggest that the information is excepted from disclosure under section 3(a)(1) of the act because it is "of a nature that would prove embarrassing to the individuals involved and to the government of Bahrain," and as "information deemed confidential under federal law, regulation, or foreign treaty with the government of Bahrain"; additionally, under section 3(a)(14), as "student records at educational institutions funded wholly or in part by state revenue."

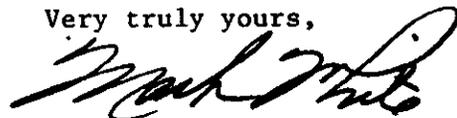
Initially, we note the suggestion that the Texas Attorney General is without authority even to determine the availability of the correspondence of a foreign government. In our opinion, this contention is misplaced. The Open Records Act is applicable to every "governmental body" as defined in the act. *Id.* §§ 2 (1), 3(a). The University of Texas is clearly a "governmental body." It is in possession of documents voluntarily submitted to it by the government of Bahrain. As we observe, *infra*, the United States Department of State has failed to cite the existence of any overriding federal law or treaty which would prohibit release of these documents. It must be presumed that the government of Bahrain is aware of the Texas Open Records Act and is also aware that correspondence directed to the University of Texas is subject to disclosure unless excepted by some specific provision of that statute. Accordingly, we do not believe that any question of sovereign immunity is presented by this request.

As to your 3(a)(1) contentions, information is not excepted from disclosure merely because it might embarrass individuals or

governments. The test under the standard of common law privacy is whether the information reveals highly intimate or embarrassing facts, the disclosure of which would be highly objectionable to a person of ordinary sensibilities. Industrial Foundation of the South v. Texas Industrial Accident Board, 540 S.W.2d 668 (Tex. 1976). In this instance, none of the documents submitted appear to reveal information excepted by common law privacy. You have not suggested, nor have we discovered, any federal law, regulation or treaty that would prohibit disclosure of this information. Indeed, we have been advised by the Department of State that "there is no international agreement in effect between the United States and Bahrain which would be relevant to the matter at issue." We conclude that the information requested here is not excepted from disclosure by section 3(a)(1) of the Open Records Act.

Section 3(a)(14) excepts "student records at educational institutions funded wholly, or in part, by state revenue." A large portion of the information contained in the documents you have submitted either does not identify individual students or reveals only information properly characterized as "directory information" under federal regulations. Family Educational Rights and Privacy Act, 20 U.S.C.A. §1232g(a)(s)(b). Accordingly, this information is not excepted from disclosure and should be released. Certain documents and portions of other documents identify individual students and furnish information regarding grades, disciplinary action, scholarships, and recommendations by the International Office of the University of Texas. Such information may properly be withheld under section 3(a)(14). In addition, some information relating to student records, while not identifying individual students by name, may be withheld in this instance because of the relatively small number of students to which the information could be applicable. In a small sampling, identification of individuals may be a relatively simple task. See Open Records Decision No. 181 (1977); Cf. Open Records Decision No. 165 (1977) (certain information, standing alone, does not identify individual students); see also Attorney General Opinion H-529 (1975). We have marked those documents and portions thereof which may be withheld under section 3(a)(14). The remainder should be disclosed.

Very truly yours,



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