



# The Attorney General of Texas

March 11, 1983

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Mr. Paul K. Williams  
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Open Records Decision No. 364

Re: Whether video tape of  
booking of prisoner into city  
jail is excepted from public  
disclosure by section 3(a)(8)  
of the Open Records Act

Dear Mr. Williams:

On behalf of the city of Midland, you have requested our decision under the Open Records Act, article 6252-17a, V.T.C.S., as to whether a video tape showing the booking of a person into a city jail is public information subject to disclosure. You state that "[i]t is a policy of the city of Midland Police Department that whenever anyone is booked that procedure is video taped."

The term "public records" is defined by the Open Records Act as:

the portion of all documents, writings, letters, memoranda, or other written, printed, typed, copied, or developed materials which contains public information.

V.T.C.S. art. 6252-17a, §2(2). This office has recently stated that the form in which information is stored does not determine its availability. Open Records Decision No. 352 (1982). This office has held that the Open Records Act applies to computer tapes, Open Records Decision No. 352; magnetic tapes, Open Records Decision No. 182 (1977); and tape recordings, Open Records Decision No. 32 (1974). Clearly, a video tape constitutes "developed materials" within the ambit of those "public records" to which the Open Records Act is applicable.

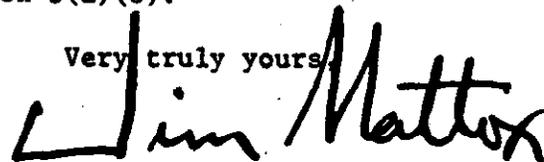
You contend that the video tape in question here is excepted from disclosure under section 3(a)(8) of the act, as:

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

Since the court's decision in Houston Chronicle Publishing Company v. City of Houston, 531 S.W.2d 177 (Tex. Civ. App. - Houston [14th Dist.] 1975), writ ref'd n.r.e. per curium, 536 S.W.2d 559 (Tex. 1976), certain law enforcement information has been recognized as disclosable, absent special circumstances. See, e.g., Open Records Decision Nos. 339 (1982); 127 (1976). A video tape of a particular booking will contain much of the information considered disclosable since the Houston Chronicle decision. On the other hand, such a video tape will also include information, specifically held in that case to be excepted from disclosure. The court said, for example, that mugshots, palm prints, and fingerprints of the arrestee need not be disclosed. In addition, evidentiary material is generally excepted. Not only would editing of excludable material from a video tape pose serious practical difficulties, in many instances the confidential information would be inextricably intertwined with the disclosable information. Furthermore, there is no suggestion that the information otherwise disclosable is not readily available to a requestor in written form.

Because this video tape contains material excepted from disclosure by section 3(a)(8); because of the practical difficulties in editing this tape to furnish non-excepted information; and because the information required to be disclosed remains available in written form, it is our decision that this video tape is excepted from disclosure in its entirety by section 3(a)(8).

Very truly yours



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