



# The Attorney General of Texas

July 28, 1983

JIM MATTOX  
Attorney General

ORD 127

Supreme Court Building  
P. O. Box 12548  
Austin, TX. 78711-2548  
512/475-2501  
Telex 910/874-1367  
Telecopier 512/475-0266

Mr. Don R. Lane  
Pampa City Attorney  
P. O. Box 1781  
Pampa, Texas 79065

Open Records Decision No. 394

Re: Whether certain police records are available under the Open Records Act

Dear Mr. Lane:

1607 Main St., Suite 1400  
Dallas, TX. 75201-4709  
214/742-8944

The local news media has asked the police department of the city of Pampa to release the following documents:

4824 Alberta Ave., Suite 160  
El Paso, TX. 79905-2793  
915/533-3484

Any record commonly called a show-up or arrest sheet, which is a chronological listing of all persons arrested during a 24-hour period. The listing should include arrestee's name, race, age, address, the place of arrest, the names of the arresting officers and the charge or charges against each suspect.

220 Dallas Ave., Suite 202  
Houston, TX. 77002-6986  
713/650-0666

. . . .

806 Broadway, Suite 312  
Lubbock, TX. 79401-3479  
806/747-5238

Further, we ask that your department provide routine access to the Pampa Police Department's 'radio log' or 'radio cards' or whatever name is used to describe the police department's records of all calls answered by police in a 24-hour period. The radio records should contain the time a call was answered, a brief description of the nature or reason for the call and its location.

4309 N. Tenth, Suite B  
McAllen, TX. 78501-1685  
512/682-4547

Further, we ask for routine, daily access to a 'jail roster' or whatever name is used for the police records of all prisoners in custody in the Pampa city jail. The record should include the date and time the prisoner was placed into custody in the city jail, his name, age, address, race, the charges against him and the amount of bond.

200 Main Plaza, Suite 400  
San Antonio, TX. 78205-2797  
512/225-4191

An Equal Opportunity/  
Affirmative Action Employer

The city attorney contends that the requested information is within the purview of sections 3(a)(1) or 3(a)(8) of the Open Records

Act, article 6252-17a, V.T.C.S. These sections except from required public disclosure:

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

. . . .

(8) 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.

In Open Records Decision No. 127 (1976), this office discussed at length 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 curiam, 536 S.W.2d 559 (Tex. 1976). This decision concluded that the Houston Chronicle case required the release of, inter alia, the following information:

1. Arrestee's social security number, name, alias, race, sex, age, occupation, address, police department identification number, and physical condition.
2. Name of arresting officer.
3. Date and time of arrest.
4. Booking information.
5. Charge.
- . . . .
8. Notation of any release or transfer. . . .

Although subsequent open records decisions have questioned some of the reasoning in the Houston Chronicle case, see, e.g., Open Records Decision No. 339 (1982), no decision has even intimated that any of the information listed above may now be withheld from the public under section 3(a)(8). Nor has any court decision, including Ex parte Pruitt, 551 S.W.2d 706 (Tex. 1977), done so. We conclude that this information is not excepted from disclosure under section 3(a)(8). We therefore reaffirm Open Records Decision No. 127 to the

extent that it holds that these items of information are not excepted from disclosure under section 3(a)(8).

As for section 3(a)(1), Industrial Foundation of the South v. Texas Industrial Accident Board, 540 S.W.2d 668 (Tex. 1976), holds that information must, in order to be excepted under common law privacy, not only be highly intimate or embarrassing, but must also be of no legitimate concern to the public. We believe that the items of information listed above are indisputably of legitimate concern to the public. This information, therefore, may not be withheld under common law privacy.

All of the specific "show-up" or "arrest sheet" information that was specifically requested by the news media in this instance, i.e., the names, race, ages, and addresses of arrestees, the place of arrest, the names of arresting officers, and the charges against each suspect, is included among these items. You must, therefore, release this information to the requestor. Because the requestor specifically requested only this information, we decline to consider whether other, unrequested information on your "arrest sheets" is available to the public. See Open Records Decision No. 127 for guidance in this area.

We next consider the availability of the department's "radio logs" and "radio cards." The city attorney contends that sections 3(a)(8) and 3(a)(11) of the Open Records Act apply to this information. Section 3(a)(11) excepts from required disclosure:

inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than one in litigation with the agency.

Section 3(a)(11) excepts "advice, opinions, and recommendations." See, e.g., Open Records Decision No. 335 (1982). Manifestly, none of the information on the radio logs or cards fits in this category. Section 3(a)(11) is therefore inapplicable.

As for section 3(a)(8), we see no qualitative difference between the information contained in the radio logs and cards and that which was expressly held to be public in Open Records Decision No. 127 (1976). The city attorney contends that the radio cards should be withheld because they are:

used for developing computer print-outs of the location and frequency of crimes at such locations and the types of crimes. The computer print-outs are then used as a tool for the deployment of officers and patrols in areas of greater crime frequency. To make such information public would

be a help to those who are engaged in criminal activity to plan their crimes in locations where there was less patrolling being done.

This reasoning might afford a justification for withholding the computer print-outs -- although we do not decide this question -- but in our opinion it clearly affords no basis for withholding the radio cards themselves. We therefore conclude that the information on the radio cards and logs is ordinarily not excepted from public disclosure.

An exception might arise in instances in which the withholding of names of, or identifying information pertaining to, complainants or informants would be justified. As this office observed in Open Records Decision No. 339 (1982), for example, the release of such information may infringe upon a complainant's common law right of privacy.

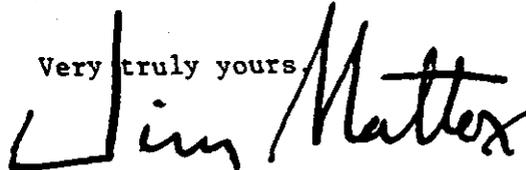
Questions relating to the application of the common law right of privacy are necessarily factual in nature and can only be resolved on a case-by-case basis. If you reasonably conclude that a particular complainant's name and identifying information pertaining to that complainant must be withheld to protect the complainant's common law right of privacy, you may withhold that information. Of course, if a particular requestor wishes to do so, he may file a formal request for that information, in which event this office would make the final determination as to whether this information may be withheld.

We finally consider the availability of the "jail roster." With the exception of the names of, and identifying information pertaining to, juveniles, we believe that Open Records Decision No. 127 (1976) is dispositive of the question of the availability of the information contained on this roster. The sample roster that you furnished contains spaces for the name of the suspect, the offense, whether or not the matter was processed, whether another agency was notified, and the disposition. Open Records Decision No. 127 requires the release of the names of arrestees, the offense, booking information, notation of any release or transfer, the details for the arrest, and bonding information. You must therefore make this information available to the requestor.

Juveniles must be treated differently, however. As this office noted in Open Records Decision No. 181 (1977), section 51.14 of the Family Code provides that law enforcement files and records pertaining to juveniles may be released only to specified parties. We conclude, therefore, that the names of juveniles, and any information which might identify a juvenile, may be withheld from disclosure when contained on the jail register log. For that matter, this information may be withheld regardless of where it might be found in the police

department's law enforcement records, including the "show-up" or "arrest sheets" with which we dealt in the first part of this decision.

Very truly yours

A handwritten signature in black ink that reads "Jim Mattox". The signature is written in a cursive style with a large, prominent "J" and "M".

J I M M A T T O X  
Attorney General of Texas

TOM GREEN  
First Assistant Attorney General

DAVID R. RICHARDS  
Executive Assistant Attorney General

Prepared by Jon Bible  
Assistant Attorney General

APPROVED:  
OPINION COMMITTEE

Rick Gilpin, Acting Chairman  
Jon Bible  
Colin Carl  
Jim Moellinger  
Nancy Sutton