



**THE ATTORNEY GENERAL
OF TEXAS**

October 17, 1988

**JIM MATTOX
ATTORNEY GENERAL**

Mr. Doyme Bailey
Sheriff
Travis County Courthouse
P.O. Box 1748
Austin, Texas 78767

ATTN: Tamara Armstrong
Asst. County Attorney

Open Records Decision No. 508

Re: Whether the names of all prisoners discharged from the Travis County Sheriff's custody to the Texas Department of Corrections on specific dates is protected from required disclosure by section 3(a)(8), of the Texas Open Records Act, article 6252-17a, V.T.C.S. (RQ-1388)

Dear Mr. Bailey:

The Travis County Sheriff's Department received a request under the Texas Open Records Act, article 6252-17a, V.T.C.S., from an inmate at the Texas Department of Corrections (TDC) for "the names of all male prisoners discharged to the custody of Department of Corrections officials on three specific days. . . ." The requestor also sought the race and date of birth of the prisoners and whether any were returned from Bench Warrants.

The Open Records Act requires the release of all information held by governmental bodies unless one of the act's specific exceptions encompasses the information. Attorney General Opinion JM-672 (1987). The county suggests that the unusual circumstances of this case warrant applying section 3(a)(8), to the information at issue.

Section 3(a)(8), the law enforcement exception, protects from required disclosure:

records of law enforcement agencies and prosecutors that deal with the detection, investigation, and prosecution of crime and the internal records and notations of such law enforcement agencies and prosecutors which are maintained for internal use in

matters relating to law enforcement and prosecution. (Emphasis added.)

Section 8 protects specific kinds of information when release of that information would unduly interfere with law enforcement and crime prevention. Ex parte Pruitt, 551 S.W.2d 706 (Tex. 1977).

You indicate that the inmate who requested this information fears that several groups of inmates are conspiring against him and may take action against him. The inmate seeks information about prisoners sent to the TDC at or around the time he was sent to TDC. You fear he may take action against other inmates. For these reasons, you contend that release of the information at issue would unduly interfere with law enforcement efforts.

The motives of a person seeking information under the Open Records Act, however, are irrelevant. Open Records Decision No. 51 (1974). Subsection 5(b) of the act provides, in part:

Neither the custodian nor his agent who controls the use of public records shall make any inquiry of any person who applies for inspection or copying of public records beyond the purpose of establishing proper identification and the public records being requested.

This provision prohibits a governmental body from asking why a particular requestor seeks information. Attorney General Opinion MW-307 (1981); Open Records Decision No. 127 (1976). The information at issue may be withheld under the Open Records Act from this inmate only if the information may be withheld from the general public.

Notations in an offense report of the release or transfer of arrestees are ordinarily public information. Houston Chronicle Publishing Co. 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); Open Records Decision Nos. 394 (1983); 127 (1976). On the other hand, Open Records Decision Nos. 366 (1983) and 339 (1982) indicate that information that was ruled on in the Houston Chronicle case and that is ordinarily found on the first page of an offense report is public except in circumstances when the release of particular information would unduly interfere with law enforcement or crime prevention or conflict with privacy rights protected by

section 3(a)(1) of the act. Thus, the Houston Chronicle case must be read in context; it dealt with the availability of general booking information that the city routinely released.

The information at issue here is different from that considered in Houston Chronicle in that it relates to specific individuals transferred to the department on specific days. The real issue here is in the law enforcement interest of the Texas Department of Corrections, not of the Travis County Jail. The department has an interest in preventing the inmate in question from attempting to injure other inmates. The department also has an interest in security that could be impaired by the release of the names of prisoners scheduled for transfer to the department on a particular date.

In Open Records Decision No. 413 (1984), this office determined that sketches showing prison security measures for a future execution are protected from required disclosure by section 3(a)(8). The decision noted that executions are inherently volatile events requiring effective crowd control. Release of sketches showing security measures around the prison would unduly interfere with law enforcement efforts.

Similarly, releasing the dates that specific prisoners will be transferred to the Department of Corrections prior to the transfer could impair security, particularly with regard to notorious criminals. The information requested here, however, relates to past transfers. We need not resolve in this decision the issue of the release of the names of prisoners to be transferred prior to transfer. Your primary law enforcement concern arises from the possibility that the inmate will use the information to the detriment of the inmates to whom it relates. As indicated, the motives of persons requesting information does not control whether the information should be made available. Nor does the use that may be made of the information by one individual control whether it falls within one of the act's exceptions. See Open Records Decision No. 489 (1988).

The public has a legitimate interest in knowing the names and dates of incarceration or transfer of arrestees and prisoners. Crime victims may want to monitor the incarceration and release of their attackers. When jail facilities are consolidated or jailers otherwise transfer large numbers of prisoners, confusion can result. Transferred prisoners' families and attorneys have an

interest in knowing their whereabouts. Additionally, the county taxpayers have an interest in knowing how many prisoners are waiting in the county jails, at county expense, for transfer to the Department of Corrections.

You do not show how release to the public of the particular information at issue would unduly interfere with law enforcement efforts. This information does not on its face constitute the kind of information section 3(a)(8) protects. The names of transferees are not records "that deal with the detection and investigation of crime" or internal notations in matters relating to law enforcement.

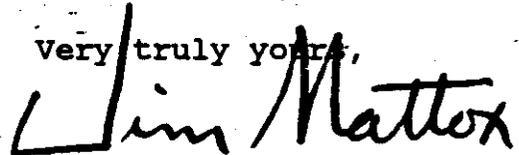
Nevertheless, nothing in the Open Records Act prevents the county from notifying the Department of Corrections about this request for information and about our response. As a general rule, letters requesting open records decisions and our responses to such letters are open. Open Records Decision No. 459 (1987). Other laws may authorize the department to restrict an inmate's receipt of information or to take other, more direct, action to prevent possible violence from the inmate in question. Discussion of actions the department may take exceeds the scope of an open records decision.

S U M M A R Y

Section 3(a)(8) of the Texas Open Records Act, article 6252-17a, V.T.C.S., does not protect from required public disclosure the names of prisoners transferred from county jail to the Texas Department of Corrections on specific days after the transfer is complete. The fact that an inmate may intend to use this information to attempt to injure the prisoners transferred does not affect his right as a member of the public to receive information under the Open Records Act. The motives of a person seeking information under

the act do not control whether specific information may be withheld. Other law may, however, permit the Texas Department of Corrections to restrict his receipt of certain information.

Very truly yours,



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