



**THE ATTORNEY GENERAL
OF TEXAS**

October 4, 1990

**JIM MATTOX
ATTORNEY GENERAL**

Honorable Gibson D. Lewis
Speaker
House of Representatives
P. O. Box 2910
Austin, Texas 78768-2910

Open Records Decision No. 570

Re: Whether correspondence files of the Speaker of the House are excepted from disclosure under the Open Records Act, article 6252-17a, V.T.C.S. (RQ-2120)

Dear Representative Lewis:

You have received a request under the Open Records Act, article 6252-17a, V.T.C.S., for "all correspondence files for Speaker Gib Lewis since Jan. 1, 1990." For purposes of this decision, we construe the request to refer only to correspondence from private citizens of this state.¹ You assert that this information is excepted from required public disclosure by section 3(a)(1) of the Open Records Act and sections 306.003 and 306.004 of the Government Code.

Section 3(a)(1) of the Open Records Act excepts from required public disclosure:

information deemed confidential by law, either Constitutional, statutory, or by judicial decision.

1. Section 306.004 of the Government Code, discussed infra, sets forth the following at subsection (b):

This section does not apply to a communication to a member of the legislature or the lieutenant governor from a public official or public employee acting in an official capacity.

Chapter 306 of the Government Code was enacted in 1987 and governs access to records and communications² collected, maintained, and received by members of the legislature and the lieutenant governor as of June 12, 1985. Gov't Code § 306.002.

Section 306.004 of the Government Code provides in pertinent part:

(a) To ensure the right of the citizens of this state to petition state government, as guaranteed by Article I, Section 27, of the Texas Constitution, by protecting the confidentiality of communications of citizens with a member of the legislature or the lieutenant governor, the public disclosure of all or part of a written or otherwise recorded communication from a citizen of this state received by a member or the lieutenant governor in his official capacity is prohibited unless:

(1) the citizen expressly or by clear implication authorizes the disclosure;

(2) the communication is of a type that is expressly authorized by statute to be disclosed; or

(3) the official determines that the disclosure does not constitute an unwarranted invasion of personal privacy of the communicator or another person.

We have examined the samples of correspondence that you have submitted to us in connection with this request. We agree that that correspondence falls within subsection (a) of section 306.004 of the Government Code. Accordingly, we conclude that the information requested is excepted from

2. Section 306.001 of the Government Code defines "communication" for purposes of chapter 306:

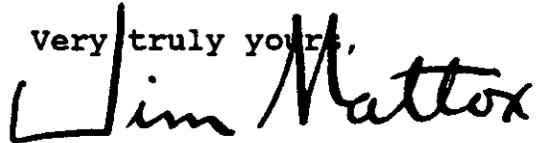
In this chapter, "communication" includes conversation, correspondence, and electronic communication. (Emphasis added.)

required public disclosure. Because we conclude that the requested information is excepted from required public disclosure by section 306.004 of the Government Code, we need not address section 306.003 of the code.

S U M M A R Y

A written or otherwise recorded communication from a citizen of this state received by a member of the legislature or the lieutenant governor in his official capacity is excepted from required public disclosure by section 3(a)(1) of the Open Records Act, article 6252-17a, V.T.C.S., and section 306.004 of the Government Code.

Very truly yours,



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