



**THE ATTORNEY GENERAL  
OF TEXAS**

**JIM MATTOX  
ATTORNEY GENERAL**

February 8, 1989

Mr. Leonard W. Peck, Jr.  
Texas Department of Corrections  
P. O. Box 99  
Huntsville, Texas 77342-0099

Dear Mr. Peck:

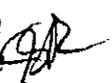
You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 5154; this decision is OR89-46.

Under the Open Records Act, all information held by governmental bodies is open unless the information falls within one of the act's specific exceptions to disclosure. The act places on the custodian of records the burden of proving that records are excepted from public disclosure. If a governmental body fails to claim an exception, the exception is ordinarily waived unless the information is deemed confidential under the act. See Attorney General Opinion JM-672 (1987). The act does not require this office to raise and consider exceptions that you have not raised.

You received a request for an inmate's records from that inmate's brother. You assert that the information is exempt from disclosure under section 3(a)(1) in conjunction with the Stipulated Modification of Section II,D and Section II,A of Amended Decree in the case of Ruiz v. Estelle, 503 F.Supp. 1265 (S.D. Tex. 1980) aff'd in part and vacated in part, 679 F.2d 1115 (5th Cir.), amended in part, 688 F.2d 266 (5th Cir. 1982), cert. denied, 460 U.S. 1042 ("the amended decree"). This office agrees that the judicial decision cited exempts the information requested to the extent the information falls under the terms of the amended decree.

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If you have questions about this ruling, please refer to OR89-46.

Yours very truly,  
*Open Government' Section  
of the Opinton Committee*   
Open Government Section  
of the Opinion Committee  
Prepared by Patricia Barnhard  
Assistant Attorney General

PB/bc

Ref.: ID# 5154

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