



**THE ATTORNEY GENERAL  
OF TEXAS**

April 12, 1989

**JIM MATTOX  
ATTORNEY GENERAL**

Mr. Paul G. Stuckle  
Police Legal Advisor  
Fort Worth Police Department  
350 W. Belknap St.  
Fort Worth, Texas 76102

Dear Mr. Stuckle:

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# 5550; this decision is OR89-110.

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.

The Fort Worth Police Department received an open records request for the Fort Worth Police Training Academy audit of "a situation in training class #78 regarding the notebooks of four trainee cadets." You contend that subsections 3(a)(1), (2), (11), and (14) of the Open Records Act protect the audit from required public disclosure.

Section 3(a)(14) requires withholding from public disclosure student records at educational institutions funded wholly, or in part, by state revenue. Additionally, the Family Educational Rights and Privacy Act of 1974, informally known as "the Buckley Amendment," provides that no federal funds will be made available under any applicable program to an educational agency or institution that releases education records of students without the written consent of the parents to anyone but certain numerated federal, state, and local officials and institutions. See 20 U.S.C. § 1232g subsections (a)(1)(A), (a)(2), (b)(1). When a student has attained the age of eighteen years or is attending an institution of post-secondary education, the student, rather than the parents, holds the rights accorded

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by Congress to inspect these records. 20 U.S.C. § 1232g(d). "Education records" means those records that contain information directly related to a student and that are maintained by an educational agency or institution or by a person acting for such agency or institution." 20 U.S.C. § 1232g(a)(4)(A).

You have demonstrated to this office that the Fort Worth Police Training Academy is an educational institution "funded wholly, or in part, by state revenue." See also Open Records Decision No. 427 (1985). For purposes of section 3(a)(14) and the Buckley amendment, the memoranda and transcripts of interviews contained in the audit constitute "education records" in that they consist of information about identifiable students; this information must be withheld.

Those portions of Exhibit B that do not contain information about identifiable students may be withheld pursuant to section 3(a)(11) of the Open Records Act, which protects from required public disclosure inter-agency memoranda to the extent that they contain advice, opinion, or recommendation intended for use in the entity's executive deliberative process. Open Records Decision No. 464 (1987). On the other hand, the documents pertaining to the academy's "Standards of Conduct," organization, and funding are public in their entirety and must be released upon request.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR89-110.

Yours very truly,

Open Government Section  
of the Opinion Committee 

Open Government Section  
of the Opinion Committee  
Prepared by Jennifer S. Riggs  
Chief, Open Government Section

JSR/RWP/bc

Copies to: Ted Cilwick

Ref: ID# 5550  
ID# 5618  
ID# 5581  
ID# 5551  
ID# 5321

LISTING OF DOCUMENTS

EXHIBIT	STATUS
A	PUBLIC
B	3A14 & 3A11
C	PUBLIC
1	3A14
2	3A14
3	3A14
4	3A14
5	3A14
6	3A14
7	3A14
8	3A14
9	PUBLIC
10	PUBLIC
11	PUBLIC
12	PUBLIC
13	PUBLIC
14	PUBLIC
15	PUBLIC
16	PUBLIC
17	PUBLIC