



**THE ATTORNEY GENERAL
OF TEXAS**

September 18, 1989

**JIM MATTOX
ATTORNEY GENERAL**

Ms. Tamara Armstrong
Assistant County Attorney
Travis County, Texas
P. O. Box 1748
Austin, Texas 78767

Dear Ms. Armstrong:

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# 6800; this decision is OR89-298.

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 Travis County District Attorney's Office received an open records request for the case files on a criminal defendant who is currently on parole after serving some time on several concurrent and consecutive prison sentences at the Texas Department of Corrections (TDC). You have released some information to the requestor, but have withheld other information that you claim is protected from required public disclosure under section 3(a)(1) as criminal history information. You submitted to this office for review two documents: a compiled criminal history from the Texas Crime Information Center (TCIC) and a letter from a TDC official that outlines the charges for which the defendant was convicted.

Criminal history information obtained from state criminal history information systems such as TCIC are confidential. Houston Chronicle Publishing Co. v. City of Houston, 531 S.W.2d 177, 188 (Tex. Civ. App. - Houston [14th Dist.] 1975), writ ref'd n.r.e. per curiam, 536 S.W.2d 559 (Tex. 1976). You must withhold this report pursuant to section

Ms. Tamara Armstrong
September 18, 1989
Page 2

3(a)(1) of the Open Records Act, which protects information deemed confidential by judicial decision.

On the other hand, there is no proscription against the release of information that reveals the offenses for which an individual is currently within the criminal justice system: this information does not constitute criminal history information. See 28 C.F.R. § 20.20(c) (1988). The letter outlining the current charges against the defendant must, therefore, be released.

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 OR89-298.

Yours very truly,

*Open Government Section
of the Opinion Committee*
Open Government Section
of the Opinion Committee
Approved by David A. Newton
Assistant Attorney General

DAN/RWP/bc

cc: Mr. Edward Blizzard
Williams & Blizzard
Attorneys at Law
440 Louisiana, Suite 1710
Houston, Texas 77002

Ref.: ID# 6800