



THE ATTORNEY GENERAL
OF TEXAS

JIM SLATTON
ATTORNEY GENERAL

March 12, 1990

Honorable Mike Driscoll
County Attorney
Harris County
1001 Preston, Suite 634
Houston, Texas 77002

Dear Mr. Driscoll

OR90-096

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# 8315.

The information in question consists of investigative files pertaining to three former employees of the Harris County Sheriff's Department. You have provided copies of each of these files designated, respectively, as exhibits "A," "B," and "G." You claim that various parts of said exhibits are excepted from public disclosure by sections 3(a)(1), 3(a)(2), 3(a)(3), 3(a)(8), 3(a)(11), and 3(a)(17).

You advise this office that litigation is currently pending with respect to the subject matter of the information contained in exhibit "A," and that the sheriff is a party to such litigation. Therefore, during the pendency of said litigation, the information in exhibit "A" is excepted from public disclosure by section 3(a)(3) of the Open Records Act and may be withheld. See, e.g., Open Records Decision No. 350 (1982) (copy enclosed).

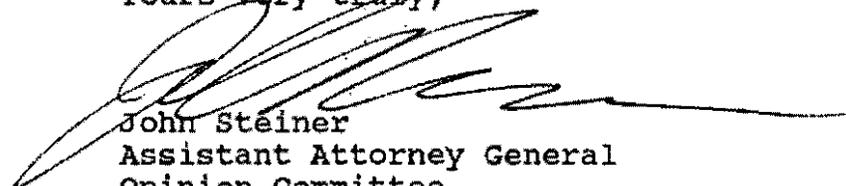
As you know, under the Open Records Act, all information held by governmental bodies is open unless it falls within one of the act's specific exceptions to disclosure. The act places on the custodian of records the burden of proving that records are excepted from public disclosure. Attorney General Opinion H-436 (1974) at 3. Although you sent copies of the information requested, you did not mark the information in exhibits "B" and "G" to show which exceptions apply to specific portions of the documents. It is clear that all of the exceptions you claim do not apply to all of the information submitted for review. Your burden under section 7(a) is to request a decision on

whether specific information is within specific exceptions. A claim that an exception applies with no explanation of why it applies will not suffice. Id. Consequently, this office cannot consider your claims.

We are returning to you the documents you submitted for review. Please resubmit the documents with markings to correlate with the specific exceptions you claim, or otherwise explain how the exceptions you claim apply to specific documents or portions thereof. You have 10 days from receipt of this letter in which to resubmit the documents at issue. Otherwise, the information must be released.

If you have questions about this letter, please refer to OR90-096.

Yours very truly,



John Steiner
Assistant Attorney General
Opinion Committee

JS/le

Enclosures: Open Records Decision No. 350
Documents Sent

cc: Mercedes Leal
Harris County Attorney's Office
1001 Preston, Suite 634
Houston, Texas 77002

Ref: ID# 8315, 8342