



THE ATTORNEY GENERAL
OF TEXAS

JIM MATTOX
ATTORNEY GENERAL

April 18, 1990

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

OR90-146

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# 8791.

You received a request from a prison inmate for "a copy of all incoming and outgoing mail from 31 August 1989 to 19 January 1990." You construe this request to ask for "a copy of the logs relating to him for that period and not for a copy of all correspondence wherever found." For purposes of this letter, we will accept your characterization of the request.

You inform us that not all correspondence to and from inmates is logged; you maintain logs regarding only correspondence with "attorneys, public officials, and certain media personalities," in addition to all certified or registered mail. Because entries in the mail log are made as the mail is received, the correspondence of more than one inmate typically is found on a single mail log page. You state:

[The requestor] could not read the logs or copies thereof without...intruding into confidential correspondence concerns of other inmates.

In saying so, we concede [the requestor's] legitimate interest in information about his correspondence. However, given the nature of the logs, there is no document we can provide to him for review. Accordingly, we believe that we are entitled to insist that he pay us for the compilation of information relating

to his correspondence for the requested period and that we receive such payment, or a reasonable estimate thereof, in advance of initiating any compilation. Article 6252-17a, § 9.

You believe that the material is excepted from disclosure by section 3(a)(1). In the event that this office concludes that the inmate is entitled to some or all of the information requested, you further contend that you "are entitled to insist on advance payment for compiling the information to which he is entitled."

Section 3(a)(1) of the Texas Open Records Act, V.T.C.S. article 6252-17a, excepts from disclosure "information deemed confidential by law, either Constitutional, statutory, or by judicial decision." This office has already held that an inmate's correspondence list is excepted from public disclosure pursuant to section 3(a)(1), as information deemed confidential by law. Open Records Decision Nos. 428 (1985); 185 (1978). However, in 1989 the legislature amended the Open Records Act to provide, inter alia, that a person has a special right of access to confidential information relating to that person. See V.T.C.S. art. 6252-17a, § 3B(a) (individual's right of access to records relating to himself that are confidential under privacy principles). Therefore, we conclude that an inmate has a special right of access to information about his own correspondence list, but he has no right of access to information about the correspondence lists of other inmates.

This office has long held that a governmental body must release information that is not protected if deletion of the protected material is possible. Open Records Decision No. 353 (1982). The act does not require a governmental body to compile or extract information if the information can be made available by giving the requestor access to the records themselves. Open Records Decision No. 467 (1987). The act gives the requesting party the option of taking notes from or paying for the duplication of public records, or both. Open Records Decision No. 152 (1977). However, if giving the requestor access to the records would give the requestor access to confidential information, the requestor's option of access to original records must be denied. Attorney General Opinion JM-672 (1987). Therefore, if doing so would not release any confidential information, the requestor may be permitted to examine the original requested information. If such is not the case, the requestor must pay for the duplication of the information.

In Open Records Decision No. 488 (1988), this office concluded that subsection 9(a) of the Open Records Act requires the requestor to bear the costs of copies of records consisting of up to legal-size pages, including the costs of materials, labor, and overhead unless the request is for 50 pages or less of readily available information. These costs include the cost of deleting confidential information. Section 11 of the act specifically provides that requestors may be required to post bond for the payment of costs as a condition precedent to the preparation of records when the preparation of records is unduly costly and their reproduction would cause undue hardship to the agency if the costs were not paid.

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 OR90-146.

Yours very truly,



Jim Moellinger
Assistant Attorney General
Opinion Committee

JM/le

Ref.: ID# 8791

cc: Joseph Ford
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