



THE ATTORNEY GENERAL  
OF TEXAS

JIM MATTOX  
ATTORNEY GENERAL

May 1, 1990

Mr. Robert Sanders  
Sanders, Baker, & Jesko, P.C.  
1616 S. Kentucky  
Building C, Suite 424  
Amarillo, Texas 79102

OR90-164

Dear Mr. Sanders:

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# 7554.

Amarillo College received an open records request for "[i]nformation relevant to disciplinary action taken by the Administration at Amarillo College against employees of the institution" since August 21, 1989. You submitted to this office, as responsive to this request, records from the college's Safety and Security Office that detail its investigation of criminal allegations against certain employees and correspondence and a memorandum pertaining to the suspension and termination of those employees.

You claim that section 3(a)(2) protects the information you submitted. Section 3(a)(2) protects information in personnel files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. The test for section 3(a)(2) protection is the same as that for information protected by common-law privacy under section 3(a)(1): To be protected from public disclosure, the information must contain highly intimate or embarrassing facts about a person's private affairs such that its release would be highly objectionable to a reasonable person and the information must be of no legitimate concern to the public. Hubert v. Harte-Hanks Texas Newspapers, Inc., 652 S.W.2d 546 (Tex. App. - Austin 1983, writ ref'd n.r.e.).

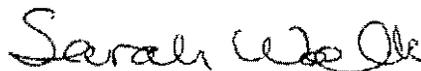
Although the criminal allegations and the information contained in the security reports could clearly be "highly embarrassing" to the college employees, in this instance it cannot be said that the nature of the allegations is outside

of the public interest because the alleged criminal activity occurred during the time the employees were on duty. See Open Records Decision No. 438 (1986) at 4-5. We note that any embarrassment the employees may suffer from the release of this information would be mitigated by the fact that this same information appeared previously in the Amarillo newspapers. We have, however, marked other portions of the requested documents that implicate the employees' privacy.

You may also withhold the identities and statements of all informants who cooperated with the investigation pursuant to the informer's privilege aspect of section 3(a)(1) unless this information has been released to any of the terminated or suspended employees. See Open Records Decision No. 202 (1978). We have also marked a small portion of one of the police reports that may be withheld pursuant to section 3(a)(8), the law enforcement exception. The remaining information must, however, 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 OR90-164.

Yours very truly,



Sarah Woelk  
Assistant Attorney General  
Opinion Committee

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Ref.: ID# 7554

cc: Steve Pritchett  
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