



**THE ATTORNEY GENERAL
OF TEXAS**

**JIM MATTOX
ATTORNEY GENERAL**

December 31, 1990

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

OR90-603

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# 11086.

The city of Fort Worth [the city] received an open records request from an inmate of the Texas Department of Criminal Justice for all arrest, investigative, and incident reports pertaining to himself held by the Fort Worth Police Department. This is the same information that was the subject matter of a prior open records determination by this office in 1987.

The city contended then, as you do now, that the requested information comes under the protection of section 3(a)(3) of the Open Records Act in conjunction with section 3(e), and this office subsequently determined that the requested information did in fact come under the protection of those sections.

Section 3(e) provides:

For purposes of Subsection (a)(3) of this section, the state or a political subdivision is considered to be a party to litigation of a criminal nature until the applicable statute of limitations has expired or until the defendant has exhausted all appellate and postconviction remedies in state and federal court. (Emphasis added.)

The criminal defendant who is seeking the information is currently serving his prison sentence for crimes to which the requested records pertain. Despite the requestor's assertions that litigation regarding this matter is no longer pending, this office cannot determine as a matter of law that he has in fact exhausted all of his post-conviction remedies. Consequently, the prior determination of this office regarding the information still governs the current request. This office need not, therefore, issue another opinion regarding this information at this time.

The requestor also seeks his criminal history information (CHRI) held by the Fort Worth Police Department. This portion of his request is governed by Open Records Decision No. 565 (1990) (copy enclosed). Information from the TCIC network must be released pursuant to section 3B of the Open Records Act if the only interest protected by withholding the CHRI is the privacy of the requestor. You have made no argument as to why the requestor's CHRI should not be released to him; consequently, the TCIC information must be released. You must withhold, however, any CHRI obtained from the NCIC network. Id.

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 OR90-603.

Yours very truly,



Susan Garrison
Assistant Attorney General
Opinion Committee

SG/RWP/le

Enclosure: Open Records Decision No. 565

Ref.: ID# 11086

cc: Gino Anthony Porter
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