



**Office of the Attorney General
State of Texas**

DAN MORALES
ATTORNEY GENERAL

July 13, 1992

Ms. Trudi Dill
Deputy City Attorney
City of Temple
Municipal Building
Temple, Texas 76501

Open Records Decision No. 606

Re: Whether information held to be protected from disclosure under the Texas Open Records Act may be retyped, with ellipses or asterisks indicating omitted information, as opposed to merely excised from existing documents (RQ-376)

Dear Ms. Dill:

Last year, the City of Temple (the city) received an open records request for "the management letters and accompanying independent audits of the city of Temple finances for the past five fiscal years -- 1990, 1989, 1988, 1987 and 1986." You wrote to this office, claiming that section 3(a)(11) of the Open Records Act exempted portions of the requested information from public disclosure. In our response, OR91-382, we concluded that 3(a)(11) exempted some of the requested information; we indicated on the records at issue those portions of the audit and management letters that you were to release to the requestor.

You state that, upon receipt of OR91-382, the city released the requested information as follows:

The portions of the requested management letters which you determined to be public information were typed--verbatim. No information which you required to be released was released in the form of a synopsis (a condensed statement or outline).¹ To preserve the context of the released portions of the documents as much as possible, ellipses were used to indicate all

¹The requestor alleges, in her letter to the city manager of the City of Temple dated September 20, 1991, that "[y]ou have previously furnished an edited, retyped synopsis of" the requested records.

omissions of text. Spaced periods (...) were used to show omission of words, phrases and sentences; centered asterisks (* * *) were used to show omission of one or more paragraphs. [Emphasis in original; footnote added.]

Thus, you provided to the requestor a copy of one excised² letter, blocking out portions on the original that were exempt from disclosure. However, for the remainder of the requested letters, which you state were difficult or impractical to excise, you provided the requestor a retyped³ document, consolidating the disclosable material and denoting omitted confidential or nondisclosable material with ellipses or asterisks. The requestor is dissatisfied with the retyped documents; she has informed you that "she wants to see the blank spaces which would be created, if the privileged portions of the 1986-1990 management letters were deleted by the process of making photocopies of photocopies, of the management letters which have been altered by physically cutting out or covering up the advisory portions of the letters." You have submitted for our review copies of the retyped documents.

In this factual context, you ask whether the Texas Open Records Act (the act), article 6252-17a, V.T.C.S., requires governmental bodies subject to the act to release excised copies of the original requested public records, as opposed to retyped documents containing only that information that the governmental body must release, with ellipses or asterisks indicating omitted text. Your question compels us to determine whether the act requires a governmental body to release copies of the actual records to the requestor, or only the public information contained in the records.

Upon reading the act in its entirety, we believe that the legislature intended to require governmental bodies to make available to the public copies of actual public records that the governmental bodies had collected, assembled, and maintained. In particular, we note that section 9(c) of the act requires all

²Throughout this opinion, we will use "excised" to refer to copies of governmental records released to a requestor with confidential or nondisclosable information on the original document blacked out.

³Throughout this opinion, we will use "retyped" to refer to new documents created or retyped from original governmental records, with ellipses or asterisks reflecting withheld information.

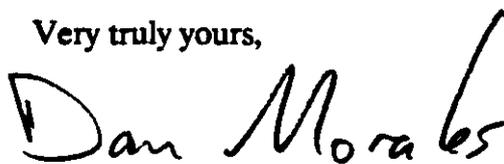
governmental bodies to "provide suitable *copies* of all public records." (Emphasis added.) Additionally, section 10(b) of the act makes it a criminal offense if an officer for public records negligently refuses to make available or to permit *copying of public records* to any person upon proper request. Finally, section 12 of the act prescribes penalties for the willful destruction, mutilation, removal, or alteration of public records. *See also id.* § 9 (relating to costs of copying public records); *id.* § 13 (authorizing each governmental body to promulgate reasonable rules regarding inspection of public records).

We therefore conclude that the act requires a governmental body to release a copy of an actual requested record, with any confidential or nondisclosable information excised. The act does not permit a governmental body to provide a requestor with a new document on which only the disclosable requested information has been consolidated and retyped.⁴ Accordingly, you must release to the requestor an excised copy of each of the records she has requested.

S U M M A R Y

The Open Records Act, V.T.C.S. art. 6252-17a, requires a governmental body to release to a requestor a copy of the actual requested record, with any confidential or nondisclosable information excised. Unless the parties agree otherwise, the act does not permit a governmental body to provide a requestor with a newly generated document on which only the disclosable information has been consolidated and retyped.

Very truly yours,



DAN MORALES
Attorney General of Texas

⁴Of course, the governmental body and the requestor may agree that the governmental body will provide a retyped document to the requestor. In those cases in which the requestor does not agree to receive a retyped document, however, the governmental body must provide the requestor with an excised copy.

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