



DAN MORALES  
ATTORNEY GENERAL

Office of the Attorney General  
State of Texas

June 26, 1991

Ms. Leah A. Curtis  
Assistant Criminal District Attorney  
Civil Section  
300 Delorosa, Suite 4049  
San Antonio, Texas 78205-3030

OR91-310

Dear Ms. Curtis:

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# 12697.

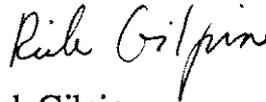
The Bexar County Sheriff received an open records request for "any and all personnel, internal affairs or investigation files concerning" a particular deputy sheriff. You state that you have released to the requestor copies of documents that you believe constitute public information. You seek to withhold an internal affairs investigation file pursuant to section 3(a)(1) of the Open Records Act, which protects "information deemed confidential by law, either Constitutional, statutory, or by judicial decision." You contend that all statements made by police officers under the protection of *Garrity* warnings should be withheld pursuant to section 3(a)(1) of the Open Records Act as information deemed confidential by judicial decision and that all other information contained in the internal affairs investigation file is so inextricably intertwined with protected information that the entire report may be withheld.

In *Garrity v. New Jersey*, 385 U.S. 493 (1967), the Supreme Court held that the Fourteenth Amendment prohibits the use of police officers' statements in subsequent criminal proceedings when those statements were obtained under threat of removal. The court's holding in *Garrity* has no bearing, however, on whether those privileged statements are confidential under the Open Records Act. See Open Records Decision No. 575 (1990) (section 3(a)(1) confidentiality does not encompass discovery privileges) (copy enclosed). Further, these statements cannot be made confidential under the Open Records Act simply because the party submitting

the information anticipates or requests that it be kept confidential. *Industrial Found. of the South v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 687 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Consequently, unless the requested information falls within one of the act's exceptions to disclosure, it must be released, notwithstanding any agreement between the sheriff's office and its officers specifying otherwise. Because you have raised none of the act's other exceptions to required public disclosure with regard to the requested information, the internal affairs investigation file must be released in its entirety.

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 OR91-310.

Yours very truly,



Rick Gilpin  
Assistant Attorney General  
Opinion Committee

RG/RWP/mc

Ref.: ID# 12697

Enclosure: Open Records Decision No. 575

cc: Richard W. South  
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