



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 29, 1993

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

OR93-194

Dear Mr. Peck:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code (former V.T.C.S. article 6252-17a).¹ Your request was assigned ID# 18926.

The Texas Department of Criminal Justice (the "department") Institutional Division has received a request from an inmate for 13 categories of information including, *inter alia*, the inmate's central file, unit file, classification file, and travel cards. You advise us that some of the requested information will be made available to the requestor.² However, you object to release of some of the requested information and claim that it is excepted from required public disclosure by former section 3(a)(8) of the Open Records Act (now found at section 552.108 of the Government Code).

Section 552.108, known as the "law enforcement" exception, excepts from required public disclosure:

(a) A record of a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime [and]

¹The Seventy-Third Legislature repealed article 6252-17a, V.T.C.S. Acts 1993, 73d Leg., ch. 268, § 46, at 988. The Open Records Act is now codified in the Government Code at chapter 552. *Id.* § 1. The codification of the Open Records Act in the Government Code is a nonsubstantive revision. *Id.* § 47.

²You also advise us that some of the information does not exist. The Open Records Act does not require a governmental body to make available information that does not exist. Open Records Decision No. 362 (1983). You claim that other information is excepted from required public disclosure under prior authority and thus do not seek a determination regarding that information. See generally Gov't Code § 552.301(a).

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement

When the "law enforcement" exception is claimed as a basis for excluding information from public view, the agency claiming it must reasonably explain, if the information does not supply the explanation on its face, how and why release would unduly interfere with law enforcement. Open Records Decision No. 434 (1986), citing *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977); *see also* Open Records Decision No. 413 (1984) (Department of Corrections is a "law enforcement" agency within the meaning of former section 3(a)(8)).

You have submitted to us for review representative samples of the requested information (Attachment C). You assert that release of this information would undermine prison security. We agree. Accordingly, the information submitted to us for review may be withheld in its entirety from required public disclosure under section 552.108 of the Government Code.

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 contact our office.

Yours very truly,



Rebecca L. Payne
Section Chief
Open Government Section

RLP/GCK/rho

Ref.: ID# 18926, ID# 19097
ID# 19122, ID# 19550
ID# 19597

Enclosures: Submitted documents

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