



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 19, 1993

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

OR93-237

Dear Mr. Peck:

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# 19018.

The Texas Department of Criminal Justice (the "department") has received a request for employment applications of current employees. You state that the information is excepted under section 3(a)(8) of the Open Records Act.

Section 3(a)(8) excepts

records of law enforcement agencies and prosecutors that deal with the detection, investigation, and prosecution of crime and the internal records and notations of such law enforcement agencies and prosecutors which are maintained for internal use in matters relating to law enforcement and prosecution.

The test for determining whether records are excepted from public disclosure under section 3(a)(8) is whether release of the records would unduly interfere with the prevention of crime and the enforcement of the law. Open Records Decision No. 553 (1990) at 4 (and cases cited therein). A governmental body claiming the "law enforcement" exception must reasonably explain how and why release of the requested information would unduly interfere with law enforcement and crime prevention. Open Records Decision No. 434 (1986) at 2-3. The Texas Department of Criminal Justice is a law enforcement agency within section 3(a)(8) of the Open Records Act. Open Records Decision No. 413 (1984).

You state that the requested information could be used by the requestor, an inmate with a history of threatening department officers, "to feed on officer paranoia as a way of either inflicting emotional harm on [the officers] or by manipulating [the officers] into being less than properly zealous in the performance of their duties." You also state that the requestor "has demonstrated an intent to locate at least some officers and their homes upon his release and harm them" and that the "fear [of such retaliatory behavior] compromises [the officers] ability to perform their duties." The security interests of a correctional facility are legitimate law enforcement concerns under section 3(a)(8). *See* Open Records Decision Nos. 508 (1988) (suggesting dates of future transfers of specific prisoners to the department may be withheld under section 3(a)(8) because it could impair security); 413 (1984) (sketch showing security measures which department plans to use for next scheduled execution may be withheld under section 3(a)(8) because its release might make crowd control unreasonably difficult).

We have reviewed the documents and considered your arguments. We agree that in this particular instance that section 3(a)(8) exempts the requested information from required disclosure.

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,



Mary R. Crouter
Assistant Attorney General
Opinion Committee

MRC/LBC/le

Ref.: ID# 19018

Enclosures: Marked documents

cc: Mr. John Richards
TDCJ #511841
Ramsey II Unit - C15
Rt. 4, Box 1200
Rosharon, Texas 77583
(w/o enclosures)