



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 30, 1993

Mr. Harry C. Green
General Counsel
Texas Department of Criminal Justice
Pardons and Paroles Division
P. O. Box 13401
Austin, Texas 78711

OR93-490

Dear Mr. Green:

You request our decision under the Open Records Act, article 6252-17a, V.T.C.S., regarding numerous requests for information you have received regarding the "address and status" of a former inmate of the Texas Department of Criminal Justice who has recently been released on mandatory supervision pursuant to the requirements of section 8 of article 42.18, Texas Code of Criminal Procedure. You suggest that this information may be withheld pursuant to section 3(a)(1) of the Open Records Act, as information made confidential by section 18 of article 42.18, Texas Code of Criminal Procedure; and that it may also be withheld for security reasons, pursuant to section 3(a)(8) of the Open Records Act, the "law enforcement" exception.

Section 18 of article 42.18 provides:

All information obtained and maintained in connection with inmates of the institutional division subject to parole, release to mandatory supervision, or executive clemency, or individuals who may be on mandatory supervision or parole and under the supervision of the pardons and paroles division, or persons directly identified in any proposed plan of release for a prisoner, including victim impact statements and inmates' arrest records, shall be confidential and privileged information and shall not be subject to public inspection; provided, however, that all such information shall be available to the governor and the members of the board upon request. It is further provided that statistical and general information respecting the parole and mandatory supervision program and system, including the names of paroled prisoners, prisoners released to mandatory

supervision, and data recorded in connection with parole and mandatory supervision services, shall be subject to public inspection at any reasonable time.

(Emphasis added.) Thus, if information about the address and status of an individual placed on mandatory supervision may be reasonably said to constitute "data recorded in connection with. . . mandatory supervision services," it *must* be disclosed, without regard to any exception that might be claimed under the Open Records Act. See Open Records Decision No. 190 (1978); see also Open Records Decisions Nos. 87 (1975); 43 (1974).

In an early decision under the Open Records Act, Attorney General John Hill held that information made confidential by section 27 of article 42.12, Code of Criminal Procedure, a provision virtually identical to section 18 of article 42.18,¹ but applicable to, *inter alia*, persons whose sentences have been commuted, refers to "information not normally found in courthouse records," such as "recommendations for or against parole, medical records, reports having to do with antisocial conduct, etc." It did *not* include the

ages and addresses of record of persons. . . whose sentences have been commuted. . . the crime or crimes of which they are convicted, the date of their release from the Department of Corrections and the date of commutation if it is different, and the length of sentence imposed and the amount of time actually served.

Open Records Decision No. 33 (1974). See also Open Records Decision No. 92 (1975).

In the more than 19 years since the issuance of Open Records Decision No. 33, the legislature has apparently acquiesced in the result of that decision. Furthermore, when article 42.18 was enacted in 1985, the language used in section 18 was obviously borrowed from the analogous portion of article 42.12. We conclude therefore that section 18 of article 42.18 does not constitute a law or statute under which the Department of Criminal Justice may invoke section 3(a)(1) of the Open Records Act to withhold the information requested. Rather, the language of section 18 affirmatively requires the Department to furnish such information upon request.

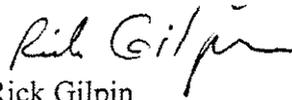
¹In 1974, the relevant portion of section 27 of article 42.12 stated:

It is further provided, that statistical and general information respecting the parole program and system, including the names of paroled prisoners *and data recorded in connection with parole services, shall be subject to inspection at any reasonable time.*

In light of this result, we need not address your concerns under section 3(a)(8) of the Open Records Act. Information regarding the address and status of a person released under mandatory supervision to the pardons and paroles division of the Texas Department of Criminal Justice constitutes information which may properly be denominated "data recorded in connection with parole or mandatory supervision services," and, as such, it is open to public inspection at any time in accordance with section 18 of article 42.18, Texas Code of Criminal Procedure.

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 this office.

Very truly yours,



Rick Gilpin
Assistant Attorney General
Open Government Section

RG/jmn

Ref.: ID# 21293

Enclosures: Submitted documents