



RQ-674

**Committee On
House Administration**

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REP. LAYTON BLACK
CHAIRMAN

REP. TONY GOOLSBY
VICE-CHAIRMAN

March 1, 1994

GCW

The Honorable Dan Morales
Attorney General
P.O. Box 12548
Austin, TX 78711

FILE # ML-25056-94

I.D.# 25056

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Dear General Morales:

As Chairman of the Administration Committee of the House of Representatives, which under the rules and procedures of the Texas House has responsibility for the House Business Office and records of that office, I request your opinion as to whether certain information is protected from disclosure under the terms of the open records law (Chapter 552, Government Code).

The business office received an open records request for certain telephone records of a state representative. In compliance with the open records law, we timely responded to the initial request by providing copies of all records in the possession of the office. After responding to the original request, we discovered that additional detail information existed on computer tape that was in the possession of the Texas Legislative Council, which provides data processing services to the house. Since learning of the existence of that information, we have requested copies of the information and called the requestor to advise her that the additional information existed.

We are releasing most of the information to the requestor. However, we are convinced that part of the information is made confidential by statute, and we request the determination of your office on that issue. The information includes the date, connect time, duration, and originating number of telephone calls made to a toll-free number in the legislator's office. That toll-free number is provided as a service to Texas citizens to allow them to communicate with this member of the house, who chairs a standing committee.

Section 306.003, Government Code, makes confidential a legislator's records "that are composed exclusively of memoranda of communications with residents of this state and of personal information concerning the person communicating with the member". A record of the originating number from which a call is made to this toll-free line is clearly a memoranda of such a communication; similarly, a person's telephone number is clearly personal information concerning the person communicating.

MEMBERS:

KEVIN BAILEY, WARREN CHISUM, KARYNE CONLEY, BETTY DENTON
ROBERT EARLEY, EDMUND KUEMPEL, LIBBY LINEBARGER, ANNA MOWERY, ROBERT SAUNDERS

The Honorable Dan Morales
Attorney General
March 1, 1994

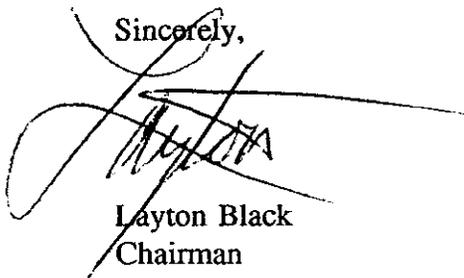
In addition, Section 306.004, Government Code, prohibits the public disclosure of a communication from a citizen to a member of the legislature in his official capacity unless certain conditions are met. Again, we believe that this statute removes these originating telephone numbers from the items of information that are required to be disclosed under the terms of the open records law. In fact, such disclosure could have the chilling effect on citizen communications to their representatives that these statutes are designed to avoid; protection of the rights of citizens under Article I, Section 27, of the Texas Constitution, as noted in Section 306.004, is a compelling state interest.

Based on these two statutes, we believe that the exception provided by Section 552.101, Government Code, applies to the originating telephone number of telephone calls made to a member of the Texas Legislature. A copy of the records at issue is attached for your review.

In regard to these matters, we direct your attention to Open Records Decision No. 570 (1990) (correspondence from citizens to the speaker confidential) and Inwood West Civic Assn. v. Touchy, 754 S.W.2d. 276 (Tex. App.-- Houston, 14th Dist., 1988) (communications from lobbyist to legislator confidential and not discoverable).

I appreciate your timely response to this request. If further information is required, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Layton Black", is written over a large, stylized flourish or scribble.

Layton Black
Chairman

LB/th