



**THE ATTORNEY GENERAL
OF TEXAS**

**JIM MATTOX
ATTORNEY GENERAL**

February 24, 1989

Mr. Rider Scott
General Counsel
Office of the Governor
Criminal Justice Division
411 West 13th Street
Austin, Texas 78701

Dear Mr. Scott:

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# 5335; this decision is OR89-73.

Under the Open Records Act, all information held by governmental bodies is open unless the information falls within one of the act's specific exceptions to disclosure. The act places on the custodian of records the burden of proving that records are excepted from public disclosure. If a governmental body fails to claim an exception, the exception is ordinarily waived unless the information is deemed confidential under the act. See Attorney General Opinion JM-672 (1987). The act does not require this office to raise and consider exceptions that you have not raised.

The Criminal Justice Division of the Governor's office received an open records request from Dr. Fred B. Vogt for information concerning the use of criminal justice grants. The division released a great deal of information but wishes to withhold one page of information relating to specific expenditures related to informants in drug investigations. You claim that section 3(a)(8) protects the information.

Section 3(a)(8) protects information the release of which would unduly interfere with law enforcement and/or crime prevention. See Ex parte Pruitt, 551 S.W.2d 706 (Tex. 1977). In Open Records Decision No. 143 (1976), this office concluded that section 3(a)(8) protects a list describing electronic surveillance equipment purchased with Law Enforcement Assistant Administration Grants. This decision

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controls your request. You may withhold under section 3(a)(8) the page submitted for review.

We caution, however, that in this case there is evidence that the requestor, Dr. Vogt, was not only asked why he sought information but told he had no business seeking any of the information he requested. Section 5(b) of the act prohibits governmental bodies from inquiring why a member of the public seeks information. Also, members of the public have the option of paying for copies of public records or of reviewing the records themselves. Art. 6252-17a § 4, V.T.C.S.; Open Records Decision No. 152 (1977).

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 OR89-74.

Yours very truly,

*Open Government Section
of the Opinion Committee* 
Open Government Section
of the Opinion Committee
Prepared by Jennifer S. Riggs
Chief, Open Government Section

JSR/bc

Ref.: ID# 5335
ID# 5189
ID# 5164
ID# 5271
ID# 5297
ID# 5563

cc: Fred B. Vogt, M.D.
705 North Second Street
Alpine, Texas 79830