



THE ATTORNEY GENERAL
OF TEXAS

JIM SLATTON
ATTORNEY GENERAL

January 26, 1990

Mr. Richard Barajas
District Attorney
83rd Judicial District of Texas
P.O. Box 639
Fort Stockton, Texas 79735

Dear Mr. Barajas:

This is to acknowledge your letter of December 14, 1989, addressed to Jennifer Riggs. Ms. Riggs has transferred to another division of the Attorney General's office, and your letter has been referred to me. Your letter has been designated ID# 8413; this is OR90-039.

Your letter refers to a letter of December 6, 1989, in which you forward to us a request from Mr. J.D. McNamara for access to records concerning a special investigative unit narcotics grant. You are concerned about "informant material" gathered in an undercover narcotics investigation, specifically, the release of the names and addresses of undercover narcotics informants. In your letter of December 14, 1989, however, you state that all confidential informant material was destroyed in October, 1988. The Open Records Act applies only to information in existence. Open Records Decision No. 342 (1982). The destruction of the records moots the Open Records request.

Since the requestor also wants material prepared in 1989, it appears that some of the requested material may still be in existence. Moreover, you discuss the law relating to the release of this information, which leads us to assume that some informant material requested is still in existence. We will therefore deal with this matter on the merits.

It is well established that the names of informants and other identifying information need not be disclosed to the public under the Open Records Act. This information is excepted from public disclosure under section 3(a)(1), as information made confidential by judicial decisions recognizing the informer's privilege, as well as under section 3(a)(8), the law enforcement exception. See, e.g.,

Open Records Decision Nos. 362 (1983); 333 (1982); 297 (1981); 127 (1976). Thus, you need not disclose this information to a member of the public in response to a request under the Open Records Act.

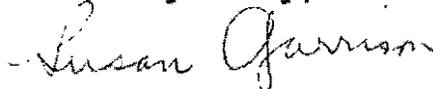
You state that the office of the 83rd Judicial District Attorney does not object to the release of other information gathered by the Special Law Enforcement Unit. Section 14(a) of the Open Records Act provides as follows:

This Act does not prohibit any governmental body from voluntarily making part or all of its records available to the public, unless expressly prohibited by law; provided that such records shall then be available to any person.

Since this investigation was financed by a grant from the State of Texas, you should consult the terms of the grant as well as applicable laws to ascertain whether any law prohibits the release of information gathered during the investigation. If federal funds provided any of the grant money, applicable federal laws and regulations should be consulted. If you need assistance in making this determination, you may formulate a request for an Attorney General Opinion and submit it to this office with a brief as required by section 402.043 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 refer to OR90-039.

Yours very truly,



Open Government Section
of the Opinion Committee
Prepared by Susan Garrison
Assistant Attorney General

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