



THE ATTORNEY GENERAL
OF TEXAS

JIM MATTOX
ATTORNEY GENERAL

April 10, 1990

Honorable Mike Driscoll
County Attorney, Harris County
1001 Preston, Suite 634
Houston, Texas 77002

OR90-140

Dear Mr. Driscoll:

You ask whether certain information may be withheld from public disclosure under the Open Records Act, article 6252-17a, V.T.C.S. Your request has been assigned ID# 7277.

You inform us that you received a request for information about a former Harris County deputy constable. You have provided the requestor with some of the requested information, but you seek to withhold other information under sections 3(a)(8) and 3(a)(11) of the Open Records Act.

Section 3(a)(8) excepts from required public disclosure:

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.

You argue that activity reports prepared by the former deputy constable as well as a letter, dated July 11, 1989, detailing the former deputy constable's activities may be withheld under section 3(a)(8). You state that those records would reveal patterns of traffic surveillance. We agree that you may withhold those documents under section 3(a)(8). See generally Open Records Decision No. 456 (1987).

We also note that information regarding two deputies' treatment of a named female DWI suspect on page 6 of the July 11, 1989, letter should be withheld under section 3(a)(1) of the Open Records Act because of the suspect's right to privacy in highly intimate matters. See Open Records Decision No. 339 (1982). A governmental body may waive its right to withhold information protected under section 3(a)(8). It may not do so, however, in regard to information protected under section 3(a)(1). Such information must be withheld.

You have also sent us copies of several internal memoranda dealing with the former deputy constable in question. You have highlighted certain information that you wish to withhold under section 3(a)(11). That exception allows a governmental body to withhold advice, opinion, or recommendation for use in the governmental body's decisions making process. Open Records Decision No. 538 (1990). You may withhold the highlighted portions of the documents you submitted.

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 OR90-140.

Yours very truly,



Sarah Woelk
Assistant Attorney General
Opinion Committee

SW/le

Ref.: ID# 7277

Enclosure: Marked Documents

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Honorable Glen Cheek
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