



THE ATTORNEY GENERAL
OF TEXAS

JIM MATTOX
ATTORNEY GENERAL

July 20, 1990

Mr. David M. Douglas
General Counsel
Texas Department of Public Safety
5805 N. Lamar Blvd.
Box 4087
Austin, Texas 78773-0001

OR90-310

Dear Mr. Douglas:

The Department of Public Safety has received an open records request that the department interprets as a request for computerized logs containing information about the use of the requestor's criminal history records. The requestor writes that he believes his criminal history file is inaccurate, and we suggest that you ask the requestor to clarify his request.

You describe those logs as follows:

The logs contain information identifying the agency which has requested a check of a subject's criminal history record, the name of the individual whose record was inquired about, along with identifying information on the subject, the purpose of the request, the law enforcement officer making the request, the communications officer who made the the request, and the result of the inquiry. The result would show whether a criminal record were transmitted or that no record were found. In addition, the date and time of the inquiry is contained on the log. The log also contains, when applicable, a State identification number and an FBI number, which identifies the individual as having a record with the FBI's National Crime Information Center (NCIC) Interstate Crime Identification Index records system.

The department seeks to withhold the criminal history search log from disclosure to the requestor under section 3(a)(8), which excepts from 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.

Section 3(a)(8) is applicable to information held by a law enforcement agency if release "will unduly interfere with law enforcement and crime prevention." See generally Ex Parte Pruitt, 551 S.W.2d. 706 (Tex. 1977); City of Houston v. Houston Chronicle Publishing Co. 673 S.W. 2d 316 (Tex. App. - Houston [1st Dist.] 1984, no writ); Open Records Decision Nos. 531 (1989); 506 (1988); 412 (1984).

The log contains the date and time of inquiries into an individual's criminal history as well as the identity and employing agency of the law enforcement officer making inquiries. Therefore, release of the logs might alert a suspect to the fact that he is subject to an investigation which might cause the suspect to alter his behavior to avoid pursuit and apprehension. Accordingly, we find that the logs in question are protected from disclosure by section 3(a)(8) of the Open Records Act.

As we conclude that the dissemination log is excepted from disclosure by section 3(a)(8), we do not address your assertion that the log is excepted by section 3(a)(1). If you have any questions regarding this matter, please refer to OR90-310.

Yours very truly,

David A. Newton by S.G.

David A. Newton
Assistant Attorney General
Opinion Committee

APPROVED BY OPINION COMMITTEE:

Rick Gilpin, Chief

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