



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 7, 1991

Honorable Mike Driscoll
Harris County Attorney
1001 Preston, Suite 634
Houston, Texas 77002-1891

OR91-354

Dear Mr. Driscoll:

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# 13009.

You have received a request for documents comprising the investigative report regarding the death of Scott Thompson. You assert that the disclosure of this information "would unduly interfere with the law enforcement efforts of the Sheriff's Department." Based upon an earlier open records decision issued by this office, Open Records Decision No. 340 (1982), you claim exemption from disclosure under sections 3(a)(3) and 3(a)(8) of the Open Records Act.

Section 3(a)(8) is applicable to:

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.

Where an incident involving allegedly criminal conduct is still under active investigation, section 3(a)(8) may be invoked by any proper custodian of information which relates to the incident. Open Records Decision No. 474 at 4 (1987). Although first page offense report information may not be withheld under section 3(a)(8), the court in the case *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976), stated that information such as the witnesses' names and statements requested here as part of the investigative report should be excepted from public disclosure because:

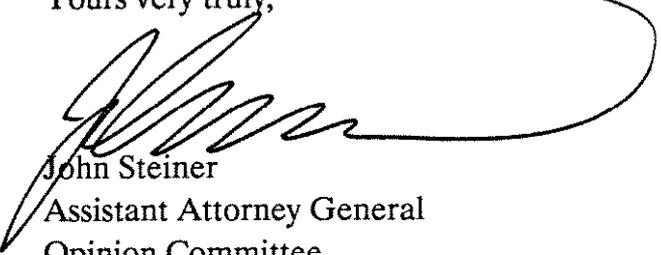
To open such material . . . in all cases might endanger the position of the State in criminal prosecutions by the use of such materials to the disadvantage of the prosecution.

Id., at 187.

We agree that Open Records Decision 340 resolves your request. Although you must disclose the first page offense report information, the remaining information contained in the investigative report may be withheld under that section. Because we have resolved your request on the basis of section 3(a)(8), we need not address the exception to disclosure under section 3(a)(3).

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 OR91-354.

Yours very truly,



John Steiner
Assistant Attorney General
Opinion Committee

JS/GCK/lb

Ref.: ID# 13009

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