Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 25, 1992

Mr. David M. Douglas
Assistant Chief, Legal Services
Texas Department of Public Safety
5805 North Lamar Boulevard
Box 4087
Austin, Texas 78773-0001

OR92-114

Dear Mr. Douglas:

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# 11697.

The Texas Department of Public Safety [hereinafter referred to as DPS or the department] received a request for copies of the current DPS Radar Operations Manual (Form TLE-39, 7/89) and the previous unrevised edition of the manual. You state that the requestor has been provided with a copy of the earlier edition of the manual edited in compliance with two informal open records rulings of this office delivered to DPS in 1986 and 1988. You claim that the manual, or portions of it, are excepted from disclosure by sections 3(a)(3) and 3(a)(8) of the Open Records Act. An assistant city attorney for the city of Dallas has advised us that the litigation to which the requested information ostensibly relates has been dismissed. Consequently, this decision will only consider the applicability of section 3(a)(8) to the current edition of the radar manual.

Section 3(a)(8) excepts from required public dislcosure

> 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;

The test for disclosure under section 3(a)(8) is whether release of the requested information will unduly interfere with law enforcement and crime prevention. *See*

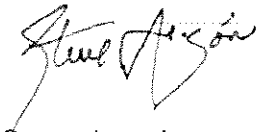
Ex parte Pruitt, 551 S.W.2d 706 (Tex. 1977). You argue that release of the entire manual currently in use will be detrimental to the department's enforcement of highway speed laws. You have marked portions of the manual that you believe should be withheld pursuant to section 3(a)(8).

Open Records Decision No. 531 (1989) concluded that portions of a city police department's "Use of Force" guidelines which, if publicly disclosed, would hinder the enforcement of the laws or subject police officers or third persons to potential injury could be withheld under section 3(a)(8). We believe similar cosiderations apply here. We agree that knowledge about specific radar detection techniques and equipment could assist an individual in violating highway speed laws. Consequently, we conclude that the portions of the manual you have marked may be withheld from public disclosure under section 3(a)(8).

The requestor has additionally asserted that portions of the manual have been released to the public. He has presented an article which quotes a document reportedly prepared by the department. You state that the department has no information regarding whether or how the author of the article obtained information which may be contained in the manual. This office cannot resolve disputed questions of fact in an open records decision. However, to the extent the department is aware that portions of the manual are in public circulation, it must release them. *See* Open Records Decision No. 463 (1987) (Open Records Act prohibits selective disclosure of public information).

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 OR92-114.

Yours very truly,



Steve Aragón
Assistant Attorney General
Opinion Committee

SA/nhb

Ref.: ID# 11697; 11727