



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

April 8, 1993

Ms. Sandra D. Hachem  
Assistant County Attorney  
Harris County  
1001 Preston, Suite 634  
Houston, Texas 77002-1891

OR93-099

Dear Ms. Hachem:

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# 17936.

The Harris County Sheriff has received a request for information relating to a certain shooting incident. Specifically, the requestor seeks "a copy of the two dispatch tapes recorded on August 25th, 1992 involving the alleged shooting of Susan Diane Harrison White by Harris County Sheriff Deputy Joseph K. McGowen." You claim that the requested information is excepted from required public disclosure by sections 3(a)(3) and 3(a)(8) of the Open Records Act.

Section 3(a)(8) of the act 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.

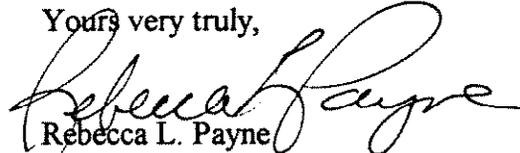
Where an incident involving allegedly criminal activity is still under active investigation or prosecution, section 3(a)(8) may be invoked by any proper custodian of information which relates to the incident. Open Records Decision No. 474 (1987) at 4-5.

You advise us that the requested information relates to pending criminal prosecution against Mr. McGowen on charges arising out of his alleged shooting of Ms. White. The district attorney prosecuting this matter advises us that he objects to release of the requested information. We conclude, therefore, that the requested tapes may be withheld from required public disclosure under section 3(a)(8) of the Open Records Act.

As we resolve this matter under section 3(a)(8), we need not address the applicability of section 3(a)(3) at this time.

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 OR93-099.

Yours very truly,

  
Rebecca L. Payne  
Section Chief  
Open Government Section

RLP/SA/GCK/le

Ref.: ID# 17936  
ID# 17960  
ID# 18005  
ID# 18101  
ID# 18104

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