



THE ATTORNEY GENERAL
OF TEXAS

JIM MATTOX
ATTORNEY GENERAL

August 16, 1990

Ms. Mary Ann Courter
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR90-378

Dear Ms. Courter:

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 earlier request was assigned ID# 8448; your most recent request has been assigned ID# 9141.

The Department of Public Safety (DPS) received two open records requests for documents relating to an investigation of a named individual. One of the requests is from the named individual who seeks the records about himself. The department has released some information, but seeks to withhold from required public disclosure under sections 3(a)(1) and 3(a)(8) copies of documents prepared by the Federal Bureau of Investigation (FBI) relating to its own investigation of the individual that were provided to the DPS. The FBI documents contain a statement on each page as follows:

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

The DPS contacted the FBI about releasing the documents in question and was informed that the FBI did not authorize their release. You cite 28 U.S.C. 534(b) as a statutory basis for excepting the information under section 3(a)(1), as information deemed confidential by law. You also contend that the information is excepted under section 3(a)(8), because the information relates to the investigation of crimes for which the individual was indicted by a grand jury, and because release of the information contrary to the

FBI's expressly stated wishes would impair the working relationship between the DPS and FBI.

We have considered the exceptions you claimed, specifically sections 3(a)(1) and 3(a)(8), and have reviewed the representative documents you submitted. A previous determination of this office, Open Records Decision No. 561 (1990), a copy of which is enclosed, resolves your request. In this case, the information was shared with the DPS by a federal agency which considered the information confidential and which notified the recipient state agency that the document was the property of the federal agency. In such an instance, section 3(a)(1) of the act requires a local governmental entity to respect the confidentiality imposed on the information by federal law. Open Records Decision No. 561. For this reason, you may withhold the requested information. The requestors here should address their request to the federal agency under appropriate federal law.

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 OR90-378.

Yours very truly,

David Newton

David A. Newton
Assistant Attorney General
Opinion Committee

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Ref.: ID# 8448, 9141

Enclosure: Open Records Decision No. 561

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