



THE ATTORNEY GENERAL
OF TEXAS

JIM MATTON
ATTORNEY GENERAL

November 20, 1990

Mr. Paul G. Stuckle
Police Legal Advisor
Assistant City Attorney
Fort Worth Police Department
350 W. Belknap St.
Fort Worth, Texas 76102

OR90-550

Dear Mr. Stuckle:

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# 10913.

The Fort Worth Police Department (the department) received an open records request from a criminal defendant for all police records concerning pending criminal charges against him. You submit records of three offenses: homicide, aggravated robbery, and legal possession of a controlled substance. You state that you have released to the requestor all of the requested information except for the identities of "confidential informants" and other witnesses. You contend that the withheld information comes under the protection of sections 3(a)(3), 3(a)(8), and the informer's privilege aspect of section 3(a)(1) of the Open Records Act.

The "informer's privilege" aspect of section 3(a)(1) protects the identity of persons who report violations of the law; the privilege also protects the contents of the informer's communications to the extent that they reveal the identity of the informant. Roviaro v. United States, 353 U.S. 53, 60 (1957). Because part of the purpose of the privilege is to prevent retaliation against informants, the privilege does not apply when the informant's identity is known to the party complained of. See Open Records Decision No. 208 (1978).

In this instance, it is apparent to this office that the department has waived the informer's privilege by releasing to the defendant/requestor information that

clearly reveals the informant's identity. Similarly, this information may not be withheld pursuant to section 3(a)(3) or 3(a)(8). You may, however, withhold pursuant to section 3(a)(8) the identity of any other witness who cooperated with the criminal investigations, see Open Records Decision No. 127 (1976), unless as in the report of aggravated robbery, the witness is also the complainant. Id.

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 OR90-550.

Yours very truly,



Susan Garrison
Assistant Attorney General
Opinion Committee

SG/RWP/le

Ref.: ID# 10913

cc: Craig Lemule Dixon
Inmate 0203475 1-8-E
Tarrant County Jail
350 W. Belknap
Ft. Worth, Texas 76102