



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 23, 1991

Ms. Mary Ann Courter
Assistant General Counsel
Texas Department of Public Safety
5805 North Lamar Boulevard, Box 4087
Austin, Texas 78773-0001

OR91-659

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 request was assigned ID# 14427.

You have received a request for information relating to the use and ownership of the requestor's automobile. Specifically, the requestor seeks the following information:

1. How many times during the calendar year 1990-present has my automobile been checked by the Houston City Police Department's Computer Information System.
2. What reason did the Houston Police use to justify these requests for information about my car.

You advise us that you are not in possession of information responsive to the second item of the request. The Open Records Act does not obligate a governmental body to obtain information that is not in its possession. Open Records Decision No 534 (1989) at 2. Information responsive to the first item is contained in Texas Law Enforcement Telecommunications System ("TLETS") computer logs. Relying on a previous informal letter ruling issued by this office, Open Records Letter No. 310 (1990), you claim that the requested information is excepted from required public disclosure by section 3(a)(8) of the Open Records Act.

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

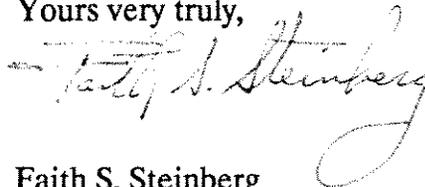
records of law enforcement agencies and prosecutors that deal with the detection, investigation, and prosecution of crime and the internal records and notations of such law enforcement agencies and prosecutors which are maintained for internal use in matters relating to law enforcement and prosecution.

This office has stated in previous open records decisions that the test for determining whether records are excepted from public disclosure under section 3(a)(8) is whether release of the records unduly would interfere with law enforcement and crime prevention. Open Records Decisions Nos. 553 (1990) at 4; 474 (1987) at 5; *see also Ex parte Pruitt*, 551 S.W.2d 706, 710 (Tex. 1977) (citing *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)). A case-by-case determination is necessary. Open Records Decision No. 434 (1986) at 2.

You advise us that TLETS is used only by law enforcement personnel to access "hot files" concerning wanted persons and stolen vehicles. TLETS is accessed for investigative purposes only. You contend that release of the computer logs "might alert a suspect to the fact that he is subject to an investigation which might cause the suspect to alter his behavior to avoid pursuit and apprehension." We agree. Accordingly, the requested information may be excepted from required public disclosure under section 3(a)(8) of the Open Records Act.

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 OR91-659.

Yours very truly,



Faith S. Steinberg
Assistant Attorney General
Opinion Committee

FS/GK/lcd

Ref.: ID# 14427

cc: Mr. Dennis M. Hughes
5202 Pease
Houston, Texas 77023