



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

July 18, 1992

Mr. Ernest A. Emerson  
State Fire Marshall  
Texas Commission on Fire Protection  
P. O. Box 2286  
Austin, Texas 78768-2286

OR92-411

Dear Mr. Emerson:

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# 16596.

The Texas Commission on Fire Protection (the commission) received an open records request asking for the name of a person who reported an unlicensed fire-alarm company to the commission. You claim that, under sections 3(a)(3) and 3(a)(8), you do not need to release this information. We agree that section 3(a)(8) permits you to withhold this information. Because we resolve your request under section 3(a)(8), we will not address the applicability of section 3(a)(3).

Section 3(a)(8) excepts from disclosure "records of law enforcement agencies...that deal with the detection, investigation, and prosecution of crime..." When a law enforcement agency is actively investigating alleged criminal activity, the agency may withhold the identification and description of witnesses under section 3(a)(8). See Open Records Decision No. 127 at 4 (1976) (interpreting *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)); Open Records Decision No. 474 (1987) at 4-5.

As the supervising board for the State Fire Marshall, the commission is a law enforcement agency within the meaning of section 3(a)(8). See Open Records Decision No. 134 (1976) (applying section 3(a)(8) to an investigative report by a Deputy State Fire Marshall and finding that portions of the report were excepted from disclosure). In addition, the information sought in this case meets all the conditions necessary to acquire protection under section 3(a)(8). An unlicensed

fire-alarm company is subject to criminal penalties under article 5.43-2, section 11 of the Insurance Code, and you indicate that your agency is actively investigating the report. Furthermore, the person who made the report is a witness. Therefore, the commission may withhold the person's identity under section 3(a)(8).

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 OR92-411.

Yours very truly,



Steve Aragón  
Assistant Attorney General  
Opinion Committee

MAR/SA/lmm

cc: Ms. Donna Wharton  
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