



Office of the Attorney General

State of Texas

March 12, 1993

DAN MORALES

ATTORNEY GENERAL

Mr. Charles Karakashian, Jr.
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR93-113

Dear Mr. Karakashian:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, V.T.C.S. article 6252-17a. Your request was assigned ID# 18457.

The Texas Department of Public Safety (the "department") has received a request for a certain videotape recording. Specifically, the requestor seeks "a copy of the videotape made by DPS troopers on November 27 depicting the arrest of four men by the Medina County Sheriff's Office and/or other agencies near the intersection of U.S. 90 and FM 1250 in Medina County." You have submitted the requested videotape to us for review and claim that sections 3(a)(3), 3(a)(8), and 3(a)(19) of the Open Records Act exempt it from required public disclosure.

Section 3(a)(8) exempts 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, any proper custodian of information which relates to the incident may invoke section 3(a)(8). Open Records Decision No. 474 (1987) at 4-5.

You advise us that the video relates to pending prosecution before the court of the 38th Judicial District. The district attorney prosecuting this matter objects to release of the requested videotape prior to trial. We have examined the videotape submitted to us for review and agree that it may be withheld under section 3(a)(8) in its entirety. As we resolve this matter under section 3(a)(8), we need not address the applicability of sections 3(a)(3) and 3(a)(19) 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 OR93-113.

Yours very truly,



Rick Gilpin
Assistant Attorney General
Opinion Committee

RG/GCK/lmm

Ref: ID# 18457
ID# 18502
ID# 18523

cc: Mr. Dale Rankin
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