



The Attorney General of Texas

March 20, 1984

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Mr. Edward H. Perry
Assistant City Attorney
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Dallas, Texas 75201

Open Records Decision No. 409

Re: Whether names of burglary victims are excepted from disclosure under the Open Records Act

Dear Mr. Perry:

You have requested our decision under the Open Records Act, article 6252-17a, V.T.C.S., as to whether the names of burglary victims are excepted from disclosure. A company that sells security systems has asked you to divulge information concerning "residential burglary, break-ins and assaults in certain areas of Dallas The form requested is a print-out of beat reports for the last 12 months" You suggest that such information is excepted from disclosure by sections 3(a)(1) and 3(a)(8) of the Open Records Act.

In Houston Chronicle Publishing Company v. City of Houston, 531 S.W.2d 177, 179 (Tex. Civ. App. - Houston [14th Dist.] 1975), writ ref'd n.r.e. per curiam, 536 S.W.2d 559 (Tex. 1976), the court declared that first page offense report information, including "identification and description of complainant," should ordinarily be disclosed. In Open Records Decision No. 366 (1983), while rejecting the rationale of the Houston Chronicle decision, we affirmed its basic conclusions,

except in circumstances where the release of particular information would 'unduly interfere with law enforcement or crime prevention,' see Ex parte Pruitt, 551 S.W.2d 706, 710 (Tex. 1977), or conflict with an individual's constitutional or common law right of privacy.

Information may be withheld under section 3(a)(1) on the basis of common law privacy if (1) it is highly intimate or embarrassing, (2) its release would be highly objectionable to a person of ordinary sensibilities, and (3) there is no legitimate public interest in its disclosure. Industrial Foundation of the South v. Texas Industrial Accident Board, 540 S.W.2d 668, 685 (Tex. 1976). In Open Records Decision No. 339 (1982), this office declared that the identity of a victim of aggravated sexual abuse was excepted from disclosure by section 3(a)(1), as "information deemed confidential by law,"

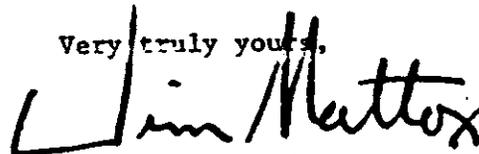
specifically, the common law right of privacy. In Open Records Decision No. 393 (1983), we similarly held that the identity of a child, the victim of sexual abuse, was excepted by common law privacy.

On the other hand, in Open Records Decision No. 169 (1977) and Attorney General Opinion MW-283 (1980), this office said that home address and telephone information of public employees is not excepted from disclosure on privacy grounds. Likewise, the names of applicants for public employment may not be withheld for reasons of privacy. Open Records Decision Nos. 277, 273, 264 (1981); 257 (1980).

In our opinion, it cannot be categorically maintained that information about the identity of a burglary victim is "highly intimate or embarrassing." Victims of sexual abuse are the only persons thus far excepted, on privacy grounds, from the rule of Houston Chronicle that requires disclosure of the names of complainants. We cannot conclude that the physical integrity of one's home is automatically on a level with the physical integrity of one's body, such that the mere disclosure of its violation might always be characterized as "highly intimate or embarrassing." The names of burglary victims are not ordinarily excepted from disclosure under section 3(a)(1) as information deemed confidential by common law privacy.

You also raise section 3(a)(8), the law enforcement exception. As we noted in Open Records Decision No. 366 (1983), the identification of a complainant is ordinarily disclosable, but may be withheld under section 3(a)(8) where its release would "unduly interfere with law enforcement or crime prevention." You have not indicated how release of the name of a burglary victim would, in a particular instance, unduly interfere with law enforcement or crime prevention. If it can be demonstrated that the release of particular names would do so, those names may be withheld. Whether disclosure of particular records will unduly interfere with law enforcement or crime prevention must be decided on a case-by-case basis. Attorney General Opinion MW-381 (1981). Certain burglaries may, for example, exhibit a pattern, the discovery of which might disclose an investigative technique. See Open Records Decision No. 216 (1978). If you wish to submit additional information in this regard, you should do so within 15 days from the issuance of this decision.

Very truly yours,



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