



The Attorney General of Texas

JIM MATTOX
Attorney General

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Supreme Court Building
P. O. Box 12548
Austin, TX. 78711-2548
512/475-2501
Telex 910/874-1367
Telecopier 512/475-0266

Mr. H. Lee Veness, Jr.
Assistant City Attorney
City of Garland
P. O. Box 401889
Garland, Texas 75040

Open Records Decision No. 422

Re: Whether details of a shooting incident are excepted from disclosure under the Open Records Act

714 Jackson, Suite 700
Dallas, TX. 75202-4506
214/742-8944

Dear Mr. Veness:

4824 Alberta Ave., Suite 160
El Paso, TX. 79905-2793
915/533-3484

1001 Texas, Suite 700
Houston, TX. 77002-3111
713/223-5886

806 Broadway, Suite 312
Lubbock, TX. 79401-3479
806/747-5238

4309 N. Tenth, Suite B
McAllen, TX. 78501-1685
512/682-4547

200 Main Plaza, Suite 400
San Antonio, TX. 78205-2797
512/225-4191

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Affirmative Action Employer

On behalf of an insurance company, a claims adjuster is conducting an investigation into a shooting incident. The company wishes to know the details of this incident; specifically, whether the shooting was self-inflicted, and if it was, whether it represented an attempted suicide or was accidental. The claims adjuster has asked you to furnish any information whatsoever in regard to this shooting, and you have asked whether the Open Records Act, article 6252-17a, V.T.C.S., requires you to comply with this request. You contend that the information is excepted from disclosure under section 3(a)(1) of the act, as "information deemed confidential by law," specifically, under a common law right of privacy.

The doctrine of common law privacy excepts from disclosure information which contains highly intimate or embarrassing facts, the disclosure of which would be highly objectionable to a reasonable person, provided that such information is of no legitimate concern to the public. Industrial Foundation of the South v. Texas Industrial Accident Board, 540 S.W.2d 668, 682 (Tex. 1976). We have recognized that information contained in medical reports might raise a claim of common law privacy if it relates, for example, to

a drug overdose, acute alcohol intoxication, obstetrical/gynecological illness, convulsions/seizures or emotional/mental distress.

Open Records Decision No. 370 (1983). See also, Open Records Decision Nos. 343 (1982); 262 (1980).

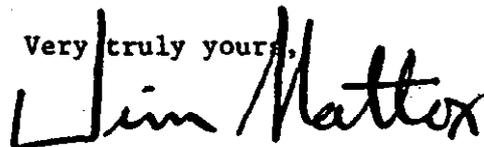
In our opinion, information which reveals that an individual was the victim of a self-inflicted wound does not in itself satisfy the standard of common law privacy. Many self-inflicted wounds are accidental, and we do not believe it is reasonable to conclude that

revealing the occurrence of an accidental self-inflicted wound reveals "highly intimate" information. On the other hand, you should not reveal any details of a self-inflicted wound beyond the fact that it is self-inflicted. A self-inflicted wound is, necessarily, either accidental or intentional. If intentional, release of that fact might lead a reasonable person to conclude that the victim was suffering from "emotional/mental distress." We cannot require release of reports of accidental self-inflicted injuries without, by implication, revealing that reports of all other self-inflicted injuries demonstrate intent. It is necessary to conclude, therefore, that while the mere fact of a self-inflicted injury is not sufficient to meet the first criterion of the common law privacy test, any details beyond that fact do satisfy that criterion, in that they would reveal highly intimate or embarrassing facts, the disclosure of which would be highly objectionable to a person of ordinary sensibilities.

To be excepted by common law privacy, however, information must also be of no legitimate concern to the public. Most previous decisions in this area have related to medical information. See, e.g., Open Records Decision Nos. 370 (1983); 343 (1982); 262 (1980). We believe it is clear that the public has a substantially greater interest in knowing the identities of victims of crime than in knowing the identities of persons treated at a public hospital. Cf. Open Records Decision No. 339 (1982) (identity of rape victim may be withheld under common law privacy). Attempted suicide is not, however, a crime in Texas, even though it may be initially investigated by the police. In our opinion, that circumstance makes it more akin to the category of "emotional/mental distress" than to that of homicide. As a result, there is in our view a presumption that the details of any instance of a self-inflicted wound, beyond the mere fact that it is self-inflicted, are excepted from disclosure by common law privacy. That presumption may be overcome by a demonstration that the public has a substantial interest in a particular incident.

As to your section 3(a)(8) claim, no information may be withheld thereunder which is not already excepted under section 3(a)(1).

Very truly yours,



J I M M A T T O X
Attorney General of Texas

TOM GREEN
First Assistant Attorney General

DAVID R. RICHARDS
Executive Assistant Attorney General

Prepared by Rick Gilpin
Assistant Attorney General

APPROVED:
OPINION COMMITTEE

Rick Gilpin, Chairman
Jon Bible
Colin Carl
Susan Garrison
Jim Moellinger
Nancy Sutton