



THE ATTORNEY GENERAL
OF TEXAS

JIM MATTOX
ATTORNEY GENERAL

June 14, 1990

Mr. John D. Gilliam
City Attorney
City of Sherman
P.O. Box 1106
Sherman, Texas 75091

OR90-233

Dear Mr. Gilliam:

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# 8684.

We have considered the exception you claimed, specifically section 3(a)(8), and have reviewed the documents at issue.

There are three documents at issue: (1) an offense report describing an offense which occurred in the City of Sherman 30 years ago, (2) a "voluntary statement" of the person arrested for the offense, and (3) a certificate of discharge from the Rusk State Hospital. The offense report and voluntary statement describe shocking events. These records show that the person arrested for the offense was 15 years of age at the time, and subsequently was admitted to the Rusk State Hospital. Nothing regarding any judicial process with respect to this matter is evinced by these records.

With respect to inactive investigations, the standard for exception under section 3(a)(8) is whether the release of the information will unduly interfere with law enforcement and crime prevention. Attorney General Opinion MW-446 (1982). You have not shown, nor is it apparent, how the release of the requested information will unduly interfere with law enforcement.

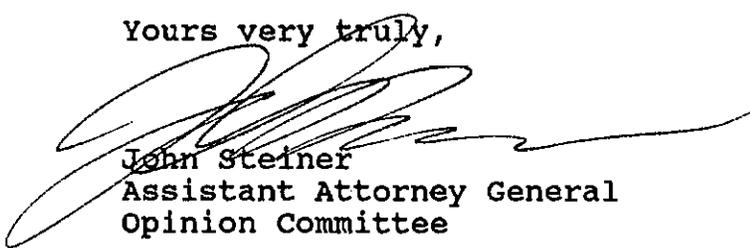
However, given the nature of the documents, we must consider whether they are excepted from public disclosure under common-law privacy as incorporated into the Open Records Act by section 3(a)(1).

To be excepted from public disclosure by common-law privacy, information must (1) contain highly intimate or embarrassing facts about a person's private affairs the release of which would be highly objectionable to a reasonable person, and (2) not be of legitimate concern to the public. Industrial Found. of the South v. Texas Indus. Accident Bd., 540 S.W.2d 668 (Tex. 1976) cert. denied, 430 U.S. 930 (1977). As the victim of the offense is no longer living, the privacy interests to be considered are those of the person accused of the offense.

The material in question certainly meets the first criterion in that it is highly intimate or embarrassing, and its release would be highly objectionable to a reasonable person. The events depicted in the documents occurred over thirty years ago. We are aware of no ongoing public interest in the case which would serve to keep these events in the public domain. We therefore conclude that the material meets the second criterion in that it is no longer of legitimate concern to the public. While we understand that the requestor may have a special interest in this information, the standard that must be applied is the interest of the general public. Accordingly, you must withhold the information.

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 OR90-233.

Yours very truly,



John Steiner
Assistant Attorney General
Opinion Committee

JS/le

Ref.: ID# 8684

cc: Ms. Barbara Jean McBride
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