



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 18, 1993

Mr. Thomas M. Johnson
Assistant City Attorney
P.O. Box 1000
Bryan, Texas 77805

OR93-058

Dear Mr. Johnson:

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# 14076.

The Bryan Police Department (the "department") has received a request for information relating to a sexual assault. Specifically, the requestor seeks a "complete copy of the report for case No. 91100649," including:

- The victim's full name.
- Her address.
- Her telephone number.
- The date, time and specific locations of the abduction and assault.
- A detailed description of the offense.

You advise us that you have released to the requestor some information responsive to the request in the form of an "abbreviated case report" (Attachment #3). You claim that the victim's name, address, and telephone number are excepted from required public disclosure by section 3(a)(1) of the Open Records Act.¹

¹Since you have not asked for our opinion on this matter, we do not address your suggestion that the disclosure of an "abbreviated case report" fulfills the department's obligation to disclose police records under the act. Nor do we address the availability of the full report (Attachment # 4) which includes a narrative of events, a list of the victim's property, and other information. We note that in the event a governmental body fails under section 7(a) of the act to claim an exception no later than ten days after receiving a written request for release of information, the information is presumptively open and may not be withheld absent a compelling demonstration of why the information should not be made public. V.T.C.S. art. 6252-17a § 7(a); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ); see also Open Records Decision Nos. 481, 480, 470 (1987); 363 (1983); 150 (1977). The

Section 3(a)(1) excepts from required public disclosure "information deemed confidential by law, either Constitutional, statutory, or by judicial decision." Chapter 57 of the Code of Criminal Procedure provides for the confidentiality of identifying information of sex offense victims. Article 57.02 of that chapter provides, in part:

(b) A victim may choose a pseudonym to be used instead of the victim's name to designate the victim in all public files and records concerning the offense, including police summary reports, press releases, and records of judicial proceedings. A victim who elects to use a pseudonym as provided by this article must complete a pseudonym form developed under this article and return the form to the law enforcement agency investigating the offense.

(c) A victim who completes and returns a pseudonym form to the law enforcement agency investigating the offense may not be required to disclose the victim's name, address, and telephone number in connection with the investigation or prosecution of the offense.

Article 57.03 provides, in part:

(a) A public servant with access to the name, address, or telephone number of a victim who has chosen to be designated by a pseudonym commits an offense if the public servant intentionally or knowingly discloses the name, address, or telephone number of the victim to any person who is not assisting in the investigation or prosecution of the offense or to any person other than the defendant, the defendant's attorney, or the person specified in the order of a court of competent jurisdiction.

You advise us that the victim has completed and returned to you a pseudonym form developed under article 57.02 of the Code of Criminal Procedure. You further advise us that no court order authorizes release of the victim's name, address, and telephone number to the requestor pursuant to section (g) of article 57.02. Accordingly, you must withhold from required public disclosure the victim's name, address, and telephone number under section 3(a)(1) of the Open Records Act.²

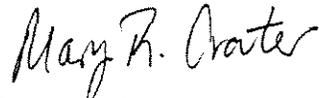
(footnote continued)

presumption of openness may be overcome if the information is deemed confidential under some other source of law or if third party interests are at stake. Open Records Decision No. 150.

²Information identifying or tending to identify the victim must also be withheld under the doctrine of common-law privacy. See Open Records Decision Nos. 393 (1983); 339 (1982).

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 OR93-058.

Yours very truly,



Mary R. Crouter
Assistant Attorney General
Opinion Committee

MRC/GCK/mc

Enclosures: Marked Documents

Ref.: ID# 14076

cc: Mr. Chuck Squatriglia
Bryan-College Station Eagle
P.O. Box 3000
Bryan, Texas 77805