



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 29, 1994

Mr. James T. Russell
Administrative Assistant
27th Judicial District of Texas
Courthouse
P.O. Box 540
Belton, Texas 76513

OR94-208

Dear Mr. Russell:

You have asked this office to determine if information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 24617.

The Bell County District Attorney (the "district attorney") received a request for all records relating to the requestor's twenty-three year old conviction for a burglary.¹ You indicate that the only information that the district attorney seeks to withhold is the victim's name and home address as they appear in the 1971 records.² You contend that

¹The requestor originally asked for records concerning a burglary conviction and a prior misdemeanor offense for which he was incarcerated. The district attorney's office indicates that it has already released all of the records in its possession that are responsive to this request except for the burglary victim's name and home address. We assume the district attorney has released all responsive information about the misdemeanor offense in its possession. See Open Records Decision Nos. 561 (1990) at 8 (good faith effort to locate requested records); 362 (1983) at 2 (no obligation to supply information which does not exist).

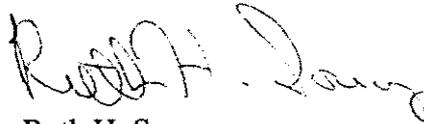
²You suggest that the some of the records contain information about the requestor which might be protected under the common-law privacy doctrine incorporated in section 552.101. The district attorney may not refuse to disclose information to the requestor on the basis of protecting the requestor's own privacy interests under section 552.101. Open Records Decision No. 481 (1987) at 4 .

You also urge that the victim's address should be protected under "the common law right of privacy to protect informants." Since the information concerns the scene of the burglary for which the requestor was convicted, we assume that he is aware of this address. Furthermore, since the victim's name would have been disclosed in the court records, we assume the requestor is aware of the victim's name. Therefore, we find no basis for withholding information under the informer's privilege. See generally

the victim's name and address may be confidential under articles 56.02 and 56.09 of the Texas Code of Criminal Procedure. The articles provide certain rights for crime victims. However, articles 56.02 and 56.09 do not appear to be applicable in this situation, as these provisions are restricted to situations involving a victim of "sexual assault, kidnapping, or aggravated robbery or who has suffered bodily injury or death as a result of the criminal conduct of another." Code Crim. Proc. art. 56.01(3). The information this office was given indicates that the crime involved was a burglary.³ Since you have raised no other basis on which this information may be withheld, it must be released to the requestor.

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 contact our office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Government Section

RHS/MRC/rho

Ref.: ID# 24617, 24958, 25611, 25616

Enclosures: Submitted documents

cc: Mr. Robert W. Diaz
6611 W. Peoria Avenue
Glendale, AZ 85302
(w/o enclosures)

Open Records Decision Nos. 515 (1989) at 4-5; 549 (1990) at 5 (concerning informer's privilege). We also note that the complainant's name and the location of the crime are types of information that normally constitute public information even during the pendency of a criminal investigation. *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), writ ref'd n.r.e. per curiam, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976).

³We note that even if the rights listed were applicable, you have not indicated that release of this information would violate these rights. You refer to article 56.02(a)(1), which provides victims "the right to receive from law enforcement agencies adequate protection from harm and threats of harm arising from cooperation with prosecution efforts." However, you have not apprised this office of any allegations of harm or threats of harm in this situation. You also refer to article 56.09, which states that the address of the victim may not be a part of the court file except as necessary to identify the place of the crime. The address at issue does appear to have been the site of the crime.