



THE ATTORNEY GENERAL
OF TEXAS

JIM MATTOX
ATTORNEY GENERAL

December 31, 1990

Honorable Michael J. Guarino
Criminal District Attorney
Galveston County, Texas
405 County Courthouse
Galveston, Texas 77550

OR90-599

Dear Mr. Guarino:

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# 10315.

The Galveston County Criminal District Attorney's Office received a request for copies of its telephone bills containing calls to area codes 713 and 512 for the period September, 1989, to the present. First, you assert the telephone bills are not public information as that term is defined in the Open Records Act. Second, you raise several exceptions under the Open Records Act to the release of some of these phone numbers.

Section 6 makes specific information public, including "information in any account, voucher, or contract dealing with the receipt or expenditure of public or other funds by governmental bodies, not otherwise made confidential by law." Id. at § 6(a)(3). Relying on this section, this office held that a list of long distance telephone numbers made by a public official is public information. See Open Records Decision No. 40 (1974). Thus, these telephone bills are public information and must be released, unless an exception in the act applies.

You assert section 3(a)(1)¹, which applies to information made confidential by common law privacy, in regard to

1. Our analysis of each exception to disclosure requires the assumption that a telephone number, by itself
(Footnote Continued)

the telephone numbers on the list which are unlisted and which are the numbers of crime victims, including victims of sexual assault. The common law right of privacy protects information that is "highly intimate or embarrassing." Industrial Found. of the South v. Texas Indus. Accident Bd., 540 S.W. 2d 668 (Tex. 1976), cert. denied, 430 U.S. 931 (1977). Even though it may be unlisted, an individual's telephone number is not a highly intimate or embarrassing fact about a person's private affairs such that its release would be objectionable to a reasonable person. See id.

As for your other privacy concerns, generally the public has an interest in knowing the identity of victims of crime. See Open Records Decision No. 422 (1984); 409 (1984). However, the identity of victims of sexual assault is protected from disclosure by section 3(a)(1) and the common-law right of privacy. Open Records Decision No. 339 (1982). Accordingly, you may withhold the telephone numbers of any victims of sexual assault.

You also assert section 3(a)(7) as an exception to the required disclosure of the telephone numbers of crime victims. Section 3(a)(7) protects information within the attorney-client privilege, which includes factual information or requests for legal advice communicated by a client to an attorney, as well as the legal advice or opinion of an attorney to a client or associated attorney. Open Records Opinion No. 574 (1990). Regarding the factual information communicated by the client to an attorney, only information about the subject matter of the representation is privileged. See id. A telephone number is not the subject of the representation of a crime victim. Accordingly, the telephone numbers of crime victims are not excepted from disclosure based on section 3(a)(7).

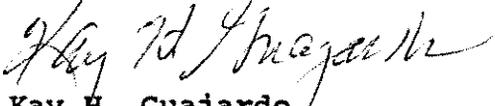
We agree with both of your final two assertions. You may withhold the home telephone numbers of police officers based on section 3(a)(17); see Open Records Decision No. 506 (1989); the telephone number of an informant is not disclosable based on section 3(a)(8). See Open Records Decision No. 216 (1978). The remainder of the telephone numbers in area codes 713 and 512 must be released.

(Footnote Continued)

with no other information, such as a name or address, may tend to identify a person, because the number provides access to that person.

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 OR90-599.

Yours very truly,


Kay H. Guajardo
Assistant Attorney General
Opinion Committee

KHG/le

Ref.: ID# 10315, 10381, 11031

Enclosure: ORD Nos. 574, 422, 339, 333, 40

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