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POTTER COUNTY, TEXAS

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COUNTY ATTORNEY

RQ-567



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AMARILLO, TEXAS 79101  
(806) 379-2255

June 3, 1993

Honorable Dan Morales  
Attorney General  
P. O. Box 12548  
Austin, Texas 78711-2548

Attention Opinion Committee

Re: Open Records Request - ABC News

Dear Ladies and Gentlemen:

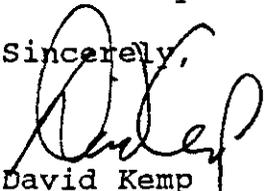
The Potter County Sheriff has received an open records request from ABC News for a "mugshot" of an individual convicted for Aggravated Sexual Assault. A copy of the request is attached. The Sheriff has asked our office to contact you on his behalf and request your opinion as to whether this item is public information.

Attached is a copy of the requested mugshot. As background, we are also attaching a copy of the Jail Release Card indicating the date of the defendant's guilty plea and the sentence received.

This photograph is a part of the Sheriff's records of persons who are booked into the Potter County Jail. As a part of an arrest record, a mugshot appears to be excepted from the requirement of disclosure as an internal record of a law enforcement agency. TEX. REV. CIV. STAT. ANN. art. 5252-71a, Sec. 3.(a)(8) (Vernon Supp. Pamphlet 1993); Houston Chronicle Publishing Company v. City of Houston, 531 S.W.2d 177 (Tex. App. - Houston [14th Dist.] 1975), writ ref'd n.r.e. The disposition of the underlying criminal case apparently has no effect on this exception.

Although the defendant has no privacy interest that would prevent the photograph from being released, we would be inclined, because of the offense involved, not to disclose the photo if it need not be disclosed. We will look forward to your opinion.

Sincerely,

  
David Kemp  
Assistant County Attorney

DK/kp  
c: Sheriff Jimmy Don Boydston  
Lt. Joe Allen

FILE # ML-20571-93

I.D.# 20571

PM 6/3/93