



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 5, 1996

Mr. Ron M. Pigott
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR96-0890

Dear Mr. Pigott:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 39875.

The Texas Department of Public Safety (the "department") received a request for "a criminal record search" on Mr. Eliud Delgado, who is deceased. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claimed and have reviewed the documents at issue.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Section 411.083(a) of the Government Code provides that criminal history record information ("CHRI") maintained by the department is confidential. Section 411.083 also provides for release of CHRI to certain individuals, including the person who is the subject of the criminal history record information. Gov't Code § 411.083(b)(3). Here, the subject of the CHRI, Mr. Delgado, is deceased. You inform us that the requestor is not the legal representative of Mr. Delgado's estate. This office has previously held that although common law privacy lapses on death, there is no similar presumption that prohibitions against disclosure in confidentiality provisions lapse upon the death of the subject. Attorney General Opinion DM-61 (1991). We therefore conclude that, as the requestor is not the legal representative of Mr. Delgado's estate, the department must withhold the requested information under section 552.101 of the Government Code.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Stacy E. Sallee
Assistant Attorney General
Open Records Division

SES/ch

Ref: ID# 39875

Enclosures: Submitted documents

cc: Mr. Eric T. Hainline
Investigator
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(w/o enclosures)