



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 22, 2009

Ms. Mindy Ward  
City Attorney  
City of San Angelo  
P.O. Box 1751  
San Angelo, Texas 76902-1751

OR2009-05326

Dear Ms. Ward:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 341091.

The San Angelo Police Department (the "department") received a request for a specified incident report. You claim that the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses the doctrine of common-law privacy, which protects information that (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). However, the common-law right to privacy is a personal right that lapses at death, and therefore it does not encompass information that relates to a deceased individual. *See Moore v. Charles B. Pierce Film Enters., Inc.*, 589 S.W.2d 489 (Tex. Civ. App.-Texarkana 1979, writ ref'd n.r.e.); *see also* Attorney General Opinions JM-229 (1984); H-917 (1976). Upon review, we conclude that the portions of the submitted information that implicate an individual's common-law right to privacy relate exclusively to a deceased individual. Accordingly, the city may not withhold any of the submitted information on the basis of the decedent's common-law right to privacy.

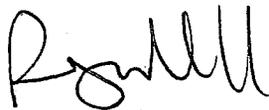
We note that the submitted information contains a Texas license plate number and vehicle identification number ("VIN"), which we have marked. Section 552.130 of the Government Code exempts from disclosure "information [that] relates to... a motor vehicle operator's or driver's license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state[.]" Gov't Code § 552.130(a)(1), (2).<sup>1</sup> The purpose of section 552.130 is to protect the privacy interests of individuals. Since, as noted above, the right of privacy lapses at death, Texas motor vehicle record information that pertains to a deceased individual may not be withheld under section 552.130. See Moore, 589 S.W.2d at 491 (Texas does not recognize relational or derivative right of privacy). Thus, to the extent a living person has an ownership interest in the vehicle to which the marked license plate number and VIN belong, the department must withhold these numbers under section 552.130. Conversely, if no living person owns an interest in the vehicle at issue, the department must release the marked license plate number and VIN.

In summary, the department must release all of the submitted information unless a living person owns an interest in the involved vehicle, in which case the department must redact the marked license plate number and VIN pursuant to section 552.130 of the Government Code.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Ryan T. Mitchell  
Assistant Attorney General  
Open Records Division

RTM/cc

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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception, such as section 552.130, on behalf of a governmental body, but ordinarily will not raise other exceptions. See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Ref: ID# 341091

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)