



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 5, 2011

Mr. John Ferguson  
Ms. Jennifer C. Cohen  
Assistant General Counsels  
Texas Department of Public Safety  
P.O. Box 4087  
Austin, Texas 78773-0001

OR2011-11308

Dear Mr. Ferguson and Ms. Cohen:

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# 426098 (ORA Nos. 11-1195, 11-1197, 11-1201, 11-1203, and 11-1205).

The Department of Public Safety (the "department") received requests from five requestors for information relating to a fatal traffic accident involving a named individual. You indicate some of the requested information either has been or will be released. You claim other responsive information is excepted from disclosure under section 552.101 of the Government Code.<sup>1</sup> We have considered the exception you claim and reviewed the information you submitted.<sup>2</sup>

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. This exception encompasses common-law privacy, which protects information that is highly intimate or embarrassing, such that its release would be highly

---

<sup>1</sup>As you have withdrawn your assertion of section 552.108 of the Government Code, which you initially raised, we do not address section 552.108.

<sup>2</sup>You inform us the named individual was notified of her right to submit comments to this office as to why the submitted information should not be released. See Gov't Code § 552.304 (any person may submit written comments stating why information at issue in request for attorney general decision should or should not be released). As of the date of this decision, this office has received no correspondence from the individual you notified.

objectionable to a person of ordinary sensibilities, and of no legitimate public interest. See *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common law privacy, both elements of this test must be established. *Id.* at 681-82. Common-law privacy encompasses the specific types of information held to be intimate or embarrassing in *Industrial Foundation*. See *id.* at 683 (information relating to sexual assault, pregnancy, mental or physical abuse in workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs). This office has determined other types of information also are private under section 552.101. See generally Open Records Decision No. 659 at 4-5 (1999) (summarizing information attorney general has held to be private).

You seek to withhold an individual's cellular telephone number, the home address of her family members, the cellular telephone numbers of other individuals with whom the individual communicated, and the content of text messages on privacy grounds. We note this office has previously concluded public disclosure of an individual's home address and telephone number is not an invasion of privacy. See Open Records Decision No. 554 at 3 (1990); see also ORD 455 at 7 (home addresses and telephone numbers do not qualify as "intimate aspects of human affairs"). We also note the submitted information is related to a criminal investigation. The public has a legitimate interest in knowing the general details of a crime. See generally *Lowe v. Hearst Communications, Inc.*, 487 F.3d 246, 250 (5th Cir. 2007) (noting a "legitimate public interest in facts tending to support an allegation of criminal activity" (citing *Cinel v. Connick*, 15 F.3d 1338, 1345-46 (5th Cir. 1994)); *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177, 186-187 (Tex. Civ. App.—Houston [14th Dist.] 1975), writ ref'd n.r.e. per curiam, 536 S.W.2d 559 (Tex. 1976) (public has legitimate interest in details of crime and police efforts to combat crime in community). Thus, having considered your arguments and reviewed the information at issue, we find you have not demonstrated any of the submitted information is highly intimate or embarrassing and not a matter of legitimate public concern. We therefore conclude the department may not withhold any of the submitted information under section 552.101 of the Government Code in conjunction with common-law privacy.

We note section 552.130 of the Government Code is or may be applicable to some of the submitted information.<sup>3</sup> This section excepts from disclosure information relating to a motor vehicle title or registration issued by an agency of this state or another state or country. See Act of May 24, 2011, 82<sup>nd</sup> Leg., R.S., S.B. 1638, § 4 (to be codified as an amendment to Gov't Code § 552.130). Because this section protects privacy, which is a personal right that lapses at death, section 552.130 is not applicable to motor vehicle information pertaining only 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.); Attorney General Opinions JM-229 (1984); H-917 (1976); Open Records Decision No. 272 (1981). We have marked

---

<sup>3</sup>This office will raise section 552.130 on behalf of a governmental body, as this section is a mandatory exception to disclosure. See Gov't Code §§ 552.007, .352; Open Records Decision No. 674 at 3 n.4 (2001) (mandatory exceptions).

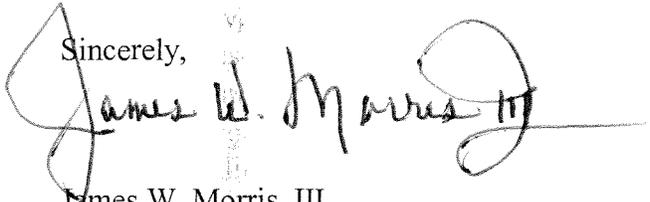
a license plate number of a living individual's vehicle the department must withhold under section 552.130 of the Government Code. We also have marked the license plate number of a vehicle driven by an individual who died in the accident. If a living individual owns an interest in that vehicle, then the department must withhold its license plate number under section 552.130; if not, then its license plate number may not be withheld under section 552.130 and must be released.<sup>4</sup>

In summary, the department must withhold the marked license plate number of the living individual's vehicle under section 552.130 of the Government Code, as well as the other marked license plate number if a living individual owns an interest in the vehicle. The department must release the rest of the submitted information.

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, toll free, at (888) 672-6787.

Sincerely,



James W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/em

Ref: ID# 426098

Enc: Submitted documents

c: Requestors  
(w/o enclosures)

---

<sup>4</sup>We note this office issued Open Records Decision No. 684 (2009), a previous determination authorizing all governmental bodies to withhold ten categories of information, including a Texas license plate number under section 552.130, without the necessity of requesting an attorney general decision.