



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 3, 2012

Mr. Craig Magnuson
Attorney
City of Mansfield
1305 East Broad Street
Mansfield, Texas 76063

OR2012-19404

Dear Mr. Magnuson:

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# 476673.

The Mansfield Police Department (the "department") received a request for information pertaining to case number 12100401. You claim 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. This exception 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. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be established. *Id.* at 681-82. The type of information considered intimate or embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate

children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683. We note because privacy is a personal right that lapses at death, the right to privacy does not encompass information that relates to only a deceased individual. Accordingly, information pertaining solely to a deceased individual may not be withheld on privacy grounds. *See Moore v. Charles B. Pierce Film Enters. Inc.*, 589 S.W.2d 489, 491 (Tex. App.—Texarkana 1979, writ ref'd n.r.e.); *see also* Attorney General Opinions JM-229 (1984) (“the right of privacy lapses upon death”), H-917 (1976) (“We are . . . of the opinion that the Texas courts would follow the almost uniform rule of other jurisdictions that the right of privacy lapses upon death.”); Open Records Decision No. 272 at 1 (1981) (privacy rights lapse upon death). The submitted information pertains solely to a deceased individual. As such, the department may not withhold the submitted information under section 552.101 on the grounds of any right to privacy the deceased individual may have.

We note the submitted information includes motor vehicle record information. Section 552.130 of the Government Code provides information relating to a motor vehicle title or registration issued by an agency of this state or another state or country, is excepted from public release.¹ Gov't Code § 552.130(a)(2). We note the purpose of section 552.130 is to protect the privacy interests of individuals and the motor vehicle record information at issue relates to a vehicle owned by the individual who is now deceased. As noted, the right of privacy lapses at death, and the motor vehicle record information that pertains only to a deceased individual may not be withheld under section 552.130. *See Moore*, 589 S.W.2d at 491; Attorney General Opinions JM-229, H-917; ORD 272 at 1. Therefore, if a living individual owns an interest in the vehicle, the department must withhold the information we have marked under section 552.130. If no living individual owns an interest in the vehicle, then the marked information may not be withheld under section 552.130. As you raise no further exceptions to disclosure, we find the department must release the remaining 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, 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

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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,

A handwritten signature in black ink, consisting of several overlapping strokes that form the name Ana Carolina Vieira.

Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/ag

Ref: ID# 476673

Enc. Submitted documents

c: Requestor
(w/o enclosures)