



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 22, 1997

Mr. Charles J. Breaux, Jr.
Legal Administrative Assistant
Jefferson County Sheriff's Department
P.O. Box 2950
Beaumont, Texas 77704

OR97-1191

Dear Mr. Breaux:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 106693.

The Jefferson County Sheriff's Department (the "department") received an open records request for all "booking information" pertaining to a named individual, who is now deceased. You state that the requested information is generally contained in the deceased's "jail card" and "rap sheet," both of which you have submitted to this office for review. You contend the requested information is excepted from required public disclosure pursuant to common-law privacy, as incorporated into section 552.101 of the Government Code, and 552.108 of the Government Code.

Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," including information protected by the common-law right of privacy. *Industrial Found. of the South v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 683-85 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). The right of privacy, however, is purely personal and lapses upon death. *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). Because the records at issue pertain to a deceased individual, we conclude that none of the information at issue is excepted from public disclosure pursuant to common-law privacy as incorporated into section 552.101.¹

¹It also appears to this office that none of the information you have submitted to this office is confidential under section 411.089 of the Government Code, which restricts dissemination of criminal history record information obtained from the Texas Department of Public Safety.

Section 552.108 of the Government Code excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime,” and “[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution.” Gov’t Code § 552.108; *see Holmes v. Morales*, 924 S.W.2d 920 (Tex. 1996). Because the requested records come within the purview of section 552.108, we conclude that much of the information at issue, including the entire “rap sheet,” may be withheld under this section.

We note, however, that certain jail house information is generally considered public. *Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). For your convenience, we have attached a list of the types of information that may not be withheld from the public. Although section 552.108 authorizes the department to withhold the remaining requested information, you may choose to release all or part of the information at issue that is not otherwise confidential by law. *See* Gov’t Code § 552.007.

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,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/RWP/rho

Ref.: ID# 106693

Enclosures: Submitted documents
Attachment

cc: Mr. Robert Segura
Lindsey Morden Claims Services, Inc.
P.O. Box 69
Beaumont, Texas 77704
(w/o enclosures, w/attachment)