



April 25, 2000

Lieutenant Brad Lancaster  
Amarillo Police Department  
200 S. E. 3<sup>rd</sup>  
Amarillo, Texas 79101-1514

OR2000-1607

Dear Lieutenant Lancaster:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 135700.

The Amarillo Police Department (the "department") received a written request for a particular police report, including photographs, pertaining to a suicide that occurred in 1992. You contend that the requested information is excepted from disclosure under section 552.101 of the Government Code in conjunction with the common law right of privacy.

Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," including information coming within the common law right to privacy. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Common law privacy protects information if it is highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, *and* it is of no legitimate concern to the public. *Id.* at 683-85.

The right of privacy is purely personal and lapses upon death. *See Moore v. Charles B. Pierce Film Enterprises 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). On the other hand, if the release of information about a deceased person reveals highly intimate or embarrassing information about living persons, the information must be withheld under common law privacy. *See* Attorney General Opinion JM-229. After reviewing the information at issue, this office could discern no information that implicates the privacy

interests of any living individual. We conclude, therefore, that the department must release the requested offense report in its entirety.

You did not submit copies of the requested photographs to this office for review. However, based on the description of the photographs in the offense report, we have no basis on which to conclude that the photographs are protected by common law privacy. The photographs therefore also must be released, with the following exceptions. Two of the photographs are described as being that of the decedent's car, including one photograph specifically of the car's license plate. Section 552.130(a)(2) of the Government Code requires the withholding of information relating to "a motor vehicle title or registration issued by an agency of this state." Consequently, the department must withhold pursuant to section 552.130(a)(2) the license plate number contained in any of the requested photographs.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Kathryn S. Knechtel  
Assistant Attorney General  
Open Records Division

KSK/RWP/ljp

Ref: ID# 135700

Encl. Submitted documents

cc: Mr. Joe Gentner  
105 Racine Trail  
Amarillo, Texas 79108  
(w/o enclosures)