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**TEXAS DEPARTMENT OF PUBLIC SAFETY**

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RQ-123

July 1, 1991

The Honorable Dan Morales  
Attorney General of Texas  
Open Government Section  
Supreme Court Building  
Austin, Texas

**RECEIVED**

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**Opinion Committee**

Dear General Morales:

Pursuant to section 7 of the Texas Open Records Act, article 6252-17a, V.T.C.S., the Texas Department of Public Safety requests a decision as to whether certain information is exempt from public disclosure under section 3(a)(1) of the Act.

Attached as Exhibit A is a letter from Bob Tapp, whose son Charles Michael Tapp was killed in an automobile accident on April 29, 1991. Attached as Exhibit B are copies of documents relevant to the request.

Since both persons killed in the accident were juveniles, the department would like clarification on whether the information is protected by section 51.14, Family Code. Subsections (c) and (d) of section 51.14 protect from public disclosure law enforcement files and records concerning a child. No criminal charges are pending against the juveniles since both of them are dead. The department asks (1) whether these are the type of documents protected by section 51.14, Family Code; and (2) whether the confidentiality lapses on the death of the protected person.

Attorney General Decision No. ORD-272 finds that the right of privacy lapses at death when the information is deemed confidential by common law or constitutional right of privacy. Attorney General Opinion No. JM-229 finds that the statutory law aspect of section 3(a)(1) of the Open Records Act does not lapse upon the death of the protected person.

Subsection (e) of section 51.14, Family Code, provides that the section does not apply to files and records relating to a child that are required or authorized to be maintained under the laws regulating the operation of motor vehicles in this state. Based on that subsection, the department does not segregate or keep confidential driver's license files. Also, the department relies on the subsection (e) exception in not segregating form ST-3 - Texas Peace Officer's Accident Reports from its general files. The department maintains these records pursuant to section 21, article 6687b, V.T.C.S. and section 47, article 6701d, V.T.C.S.

**ACCOMPANIED BY ENCLOSURES -**

**FILED SEPARATELY**

COURTESY SERVICE PHOTOGRAPH

The Honorable Dan Morales

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However, the laboratory reports concerning juveniles are withheld from disclosure and are released only if they fall within the exceptions enumerated in subsection (d). -However, in this particular case, since both subjects are dead, the department would like a decision as to whether the documents are still confidential. Also, in the event your analysis depends in part on the relationship between the requestor and the deceased, please note that only one of the deceased juveniles was the son of the requestor.

Please feel free to contact me if you have any questions or need additional information concerning this request.

Sincerely,



Mary Ann Courter  
Assistant General Counsel

MAC:bif

Attached