



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 18, 2022

Ms. Jodie G. McGuire
Records Clerk
Hood County Sheriff's Office
400 Deputy Larry Miller Drive
Granbury, Texas 76048

OR2022-07917

Dear Ms. McGuire:

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# 936334 (ORR# R22-00018).

The Hood County Sheriff's Office (the "sheriff's office") received a request for fingerprint records related to a named individual. 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 section encompasses information protected by section 560.003 of the Government Code, which provides, "[a] biometric identifier in the possession of a governmental body is exempt from disclosure under [the Act]." *Id.* § 560.003; *see id.* § 560.001(1) ("biometric identifier" means retina or iris scan, fingerprint, voiceprint, or record of hand or face geometry). We note, however, laws making this type of information confidential are intended to protect an individual's privacy. *See id.* § 560.003. Therefore, because the right of privacy is purely personal and lapses at death, the fingerprints of a deceased individual may not be withheld on the basis of sections 560.001, 560.002, and 560.003. *Moore v. Charles B. Pierce Film Enters., Inc.*, 589 S.W.2d 489, 491 (Tex. Civ. App.—Texarkana 1979, writ ref'd n.r.e.); *see also Justice v. Belo Broadcasting Corp.*, 472 F. Supp. 145, 146-47 (N.D. Tex. 1979) ("action for invasion of privacy can be maintained only by a living individual whose privacy is invaded") (quoting RESTATEMENT (SECOND) OF TORTS § 6251 (1977)); *see* 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 (1981). In this instance, the information at issue consists of fingerprints belonging to an individual who is deceased. Therefore, this information is not confidential under section 560.003 of the Government Code, and the sheriff’s office may not withhold it under section 552.101 of the Government Code on that basis. As you raise no further exceptions to disclosure, the sheriff’s office must release 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Tim Neal
Assistant Attorney General
Open Records Division

TN/jxd

Ref: ID# 936334

Enc. Submitted documents

c: Requestor
(w/o enclosures)