



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 12, 2010

Ms. Josefina J. Brostrom
Assistant County Attorney
El Paso County
500 East San Antonio, Room 503
El Paso, Texas 79901

OR2010-00572

Dear Ms. Brostrom:

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# 367124 (El Paso No. OP-09-520).

The El Paso County Medical Examiner (the "medical examiner") received a request for all records pertaining to a named individual over a specified period of time. You indicate a portion of the requested information has been released. 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 information that other statutes make confidential. Section 552.101 encompasses section 11 of article 49.25 of the Code of Criminal Procedure, which provides the following:

The medical examiner shall keep full and complete records properly indexed, giving the name if known of every person whose death is investigated, the place where the body was found, the date, the cause and manner of death, and shall issue a death certificate The records are subject to required public disclosure in accordance with [the Act], except that a photograph or x-ray of a body taken during an autopsy is excepted from required public disclosure

in accordance with Chapter 552, Government Code, but is subject to disclosure:

- (1) under a subpoena or authority of other law; or
- (2) if the photograph or x-ray is of the body of a person who died while in the custody of law enforcement.

Crim. Proc. Code art. 49.25. Because neither exception to confidentiality applies to the information in this instance, we agree the medical examiner must withhold the submitted autopsy photographs pursuant to section 552.101 of the Government Code in conjunction with section 11 of article 49.25 of the Code of Criminal Procedure.

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 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,



Matt Entsminger
Assistant Attorney General
Open Records Division

MRE/rl

Ref: ID# 367124

Enc. Submitted documents

c: Requestor
(w/o enclosures)