



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 14, 2010

Mr. Richard P. Bianchi
County Attorney
Aransas County
301 North Live Oak Street
Rockport, Texas 78382

OR2010-05336

Dear Mr. Bianchi:

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# 381148.

The Aransas County Sheriff's Office (the "sheriff") received a request for information pertaining to the death of a named individual. You state you have released some of the requested information. You claim some of the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions 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 other statutes, including section 11 of article 49.25 of the Code of Criminal Procedure, which provides as follows:

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 Chapter 552, Government Code, 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, § 11. You state the submitted photographs are photographs of the deceased taken during an autopsy. You do not indicate that either of the statutory exceptions to confidentiality is applicable in this instance. Thus, we agree that the sheriff must withhold the submitted autopsy photographs under section 552.101 of the Government Code in conjunction with section 11 of article 49.25 of the Code of Criminal Procedure.

Section 552.130 of the Government Code excepts from disclosure information that relates to a motor vehicle operator's license, driver's license, motor vehicle title, registration, or a personal identification document issued by a Texas agency. Gov't Code § 552.130(a)(1), (2). We note that the purpose of section 552.130 is to protect the privacy interests of individuals. Because the right of privacy lapses at death, Texas motor vehicle record information that pertains to solely to a deceased individual may not be withheld under section 552.130. *See* 589 S.W.2d 489, 491. Accordingly, the sheriff may not withhold the Texas driver's license information pertaining to the deceased individual based on section 552.130. However, the sheriff must withhold the remaining driver's license number you have marked, under section 552.130 of the Government Code. Further, if the license plate number you have marked pertains to a vehicle owned by a living person, it must be withheld under section 552.130; however, this information may not be withheld under section 552.130 if it pertains to a deceased individual.

In summary, the sheriff must withhold the submitted autopsy photographs under section 552.101 of the Government Code in conjunction with section 11 of article 49.25 of the Code of Criminal Procedure. If the marked Texas license plate number of the vehicle that was driven by the individual who is now deceased pertains to a vehicle owned by a living person, it must be withheld under section 552.130 of the Government Code, along with the driver's license number pertaining to a living individual you have marked.¹ The remaining information must be released.

¹We note that this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas driver's license and license plate numbers under section 552.130, without the necessity of requesting an attorney general decision.

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,



Paige Lay
Assistant Attorney General
Open Records Division

PL/eeg

Ref: ID# 381148

Enc. Submitted documents

cc: Requestor
(w/o enclosures)