



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 3, 2010

Mr. David M. Swope
Assistant County Attorney
Harris County
1019 Congress, 15th Floor
Houston, Texas 77002

OR2010-08036

Dear Mr. Swope:

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# 381474 (C.A. File No. 10GEN0614).

The Harris County Institute of Forensic Sciences (the "institute") received a request for emergency medical services records, hospital records, and any other records in the institute's possession pertaining to a named deceased individual. You indicate that, with the exception of the submitted photographs, you have released the requested information to the requestor. You claim the submitted photographs are excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted photographs.

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 were taken of the deceased during an autopsy. You state neither of the statutory exceptions to confidentiality is applicable in this instance. Upon review, we agree that most of the submitted photographs are of a body taken during an autopsy. We note, however, photographs IMG_0056, MEO_0007, MEO_0008, MEO_0025, and MEO_0026 are not photographs of a body taken during an autopsy and may not be withheld under section 552.101 on that basis. Thus, with the exception of photographs IMG_0056, MEO_0007, MEO_0008, MEO_0025, and MEO_0026, the institute must withhold the submitted photographs under section 552.101 of the Government Code in conjunction with section 11 of article 49.25 of the Code of Criminal Procedure. As you raise no other exceptions to disclosure, the remaining photographs must be released.

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,



Jessica Eales
Assistant Attorney General
Open Records Division

JCE/eeg

Ref: ID# 381474

Enc. Submitted documents

c: Requestor
(w/o enclosures)