



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 1, 2010

Ms. Janet Monteros
Assistant County Attorney
El Paso County Attorney's Office
500 East San Antonio, Room 503
El Paso, Texas 79901

OR2010-13339

Dear Ms. Monteros:

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# 397003 (CA – OP-10-316).

The El Paso Medical Examiner's Office (the "medical examiner") received a request for three categories of information related to the death of a specified individual. You have released some of the responsive information to the requestor. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.136 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 indicate some of the submitted photographs are photographs of the decedent's body taken during an autopsy. You state that neither of the statutory exceptions to confidentiality is applicable in this instance. Thus, we agree that the department 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.

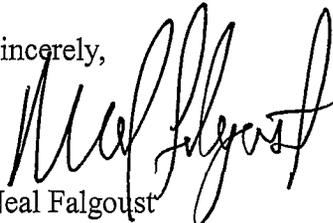
You also state that some of the responsive photographs are photographs of the decedent's credit cards and a survivor's credit cards. Section 552.136 of the Government Code states that "[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential." Gov't Code § 552.136. We note that section 552.136 was enacted to protect privacy interests. An individual's privacy interest lapses upon that individual's death, but the interest remains to the extent another living individual has a co-existing interest in the same information. *See* Open Records Decision No. 272 at 1 (1981). Thus, section 552.136 does not make confidential the credit card numbers of a deceased individual, unless another living person also has an interest in those credit cards. Accordingly, with respect to the photographs of the survivor's credit cards, the medical examiner must withhold the photographs under section 552.136. With respect to the photographs of the decedent's credit cards, to the extent that another living person has an interest in the credit cards, the medical examiner must withhold the photographs under section 552.136.

In summary, the medical examiner must withhold the autopsy photos under section 552.101 of the Government Code in conjunction with section 11 of article 49.25 of the Code of Criminal Procedure. The medical examiner also must withhold the photographs of any living person's credit cards under section 552.136. Finally, to the extent a living person has a remaining privacy interest in the decedent's credit cards, the photographs of the decedent's credit cards must be withheld under section 552.136.

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,



Neal Falgout
Assistant Attorney General
Open Records Division

NF/jb

Ref: ID# 397033

Enc. Submitted documents

c: Requestor
(w/o enclosures)