



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 14, 2011

Ms. Janet I. Monteros
Assistant County Attorney
County of El Paso
500 East San Antonio, Room 503
El Paso, Texas 79901

OR2011-03485

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# 415697 (CA-OP-11-044).

The El Paso Medical Examiner's Office (the "medical examiner") received a request for information pertaining to a specified autopsy and a specified case number. You state you have released some of the requested information. You claim 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." *Id.* § 552.101. Section 552.101 encompasses information protected by other statutes such as 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, § 11. You represent the photographs you marked were taken during an autopsy of the deceased individual. Neither statutory exception applies in this instance. Therefore, based on your representations and our review, 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.

You claim section 552.130 of the Government Code protects portions of the remaining submitted photographs. Section 552.130 of the Government Code excepts from disclosure "information [that] relates to ... a motor vehicle title or registration issued by an agency of this state." Gov't Code § 552.130(a)(2). Thus, we agree the medical examiner must withhold the portions of the submitted photographs that reveal a Texas license plate under section 552.130 of the Government Code.

In summary, 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 and the portions of the remaining submitted photographs that reveal a Texas license plate under section 552.130 of the Government Code.¹ The remaining submitted information 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

¹In Open Records Decision No. 684 (2009), this office issued a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including the portion of a photograph that reveals a Texas license plate number under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

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,

A handwritten signature in cursive script that reads "Paige Lay".

Paige Lay
Assistant Attorney General
Open Records Division

PL/em

Ref: ID# 415697

Enc. Submitted documents

cc: Requestor
(w/o enclosures)