



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 19, 2011

Mr. Ronald J. Bounds
Assistant City Attorney
City of Corpus Christi
P.O. Box 9277
Corpus Christi, Texas 78469-9277

OR2011-10232

Dear Mr. Bounds:

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# 424137.

The Corpus Christi Police Department (the "department") received a request for a specified surveillance video recording and photographs pertaining to case number C1003752. You state the department has provided the requested video recording to the requestor. You claim some of 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 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 other statutes make confidential, such as section 11 of article 49.25 of the Code of Criminal Procedure, which provides:

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 [the Act], 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 (emphasis added). You claim the submitted photographs of the decedent's body are excepted from disclosure under section 11 of article 49.25 of the Code of Criminal Procedure. This provision excepts from required public disclosure a photograph or x-ray of a body taken during an autopsy. In subsequent communications with this office, you acknowledge the photographs at issue were, in fact, not taken during the course of an autopsy, but were actually taken by a department forensic investigator during the course of the investigation of the events surrounding the decedent's death. Based on your acknowledgment the photographs at issue were not taken during an autopsy, we find you have failed to demonstrate the applicability of section 11 of article 49.25 of the Code of Criminal Procedure to these photographs. Consequently, the department may not withhold the photographs at issue pursuant to section 552.101 of the Government Code in conjunction with section 11 of article 49.25 of the Code of Criminal Procedure. As you have not claimed any other exceptions to disclosure for the photographs of the decedent, the department must release those photographs.

We note some of the remaining photographs contain license plate numbers. Section 552.130 of the Government Code provides information relating to a motor vehicle title or registration issued by a Texas agency, or an agency of another state or country, is excepted from public release.¹ Act of May 24, 2011, 82nd Leg., R.S., S.B. 1638, § 4 (to be codified as an amendment to Gov't Code § 552.130(a)(2)). Therefore, the department must withhold any license plate numbers in the remaining photographs under section 552.130 of the Government Code.² The department must release the remaining information.

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,

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

²This office issued Open Records Decision No. 684 (2009), 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.

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,

A handwritten signature in blue ink that reads "Leah B. Wingerson". The signature is written in a cursive style with a large initial 'L'.

Leah B. Wingerson
Assistant Attorney General
Open Records Division

LBW/dls

Ref: ID# 424137

Enc. Submitted documents

c: Requestor
(w/o enclosures)