



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 1, 2011

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

OR2011-10999

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# 429620 (No. CA – OP-11-276).

The El Paso Medical Examiner's Office (the "medical examiner") received a request for information relating to a named decedent. You state some of the requested information either has been or will be released. You claim other responsive 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 information you submitted.

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 exception encompasses information other statutes make confidential. Section 11 of article 49.25 of the Code of Criminal Procedure 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 statutory exceptions to confidentiality of the submitted autopsy photographs are not applicable in this instance. Based on your representations, we conclude the medical examiner must withhold the 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 relating to a motor vehicle operator's or driver's license or permit issued by an agency of this state or another state or country. *See* 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). Although you seek to withhold the submitted copy of a Texas driver's license under section 552.130, we note this exception protects personal privacy. In this instance, the requestor has provided documentation demonstrating he has a right of access to the submitted driver's license information under section 552.023 of the Government Code. *See* Gov't Code § 552.023; Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself).¹ Therefore, the submitted driver's license information may not be withheld under section 552.130 of the Government Code and must be released to the requestor.²

In summary, the medical examiner 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. The submitted driver's license information must be

¹Section 552.023 of the Government Code provides in part that "[a] person or a person's authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy interests." Gov't Code § 552.023(a).

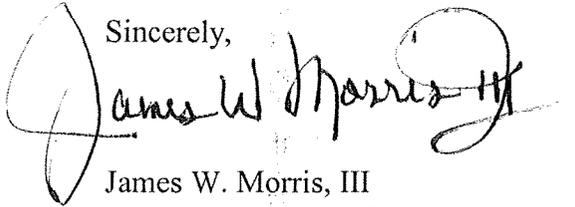
²We note Open Records Decision No. 684 (2009) is a previous determination issued by this office authorizing all governmental bodies to withhold ten categories of information, including a copy of a Texas driver's license under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision. Thus, should the medical examiner receive another request for these same records from a person who would not have a right of access to the submitted copy of a Texas driver's license, Open Records Decision No. 684 authorizes the medical examiner to withhold that information without the necessity of requesting another decision.

released. As we are able to make these determinations, we need not address your other arguments against disclosure.

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,

A handwritten signature in black ink that reads "James W. Morris, III". The signature is written in a cursive style with a large, looping initial "J".

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/em

Ref: ID# 429620

Enc: Submitted information

c: Requestor
(w/o enclosures)