



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 7, 2012

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

OR2012-08756

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# 459888 (CA-OP-12-178).

The El Paso County Medical Examiner's Office (the "medical examiner's office") received a request for reports, the death certificate, and all photographs pertaining to a named deceased individual. You state the medical examiner's office has 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.

You seek to withhold the submitted autopsy photographs under section 552.101 of the Government Code, which excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses 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 of the deceased were taken during an autopsy. You represent neither of the statutory exceptions to confidentiality is applicable in this instance. Based on your representations and our review, we determine the medical examiner's office 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. However, two of the submitted photographs are photographs of a car and not autopsy photographs of the deceased. These photographs, which we have marked, are not confidential under section 11 of article 49.25 and they may not be withheld under section 552.101 of the Government Code on that basis.

Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle operator's or driver's license or permit or a motor vehicle title or registration issued by an agency of this state or another state or country. Gov't Code § 552.130(a)(1)-(2). We agree the medical examiner's office must withhold the copy of a driver's license under section 552.130. We have marked the license plate number of a vehicle that appears to have belonged to the decedent. However, section 552.130 protects the privacy interests of individuals. Because the right of privacy lapses at death, motor vehicle record information that pertains solely to a deceased individual may not be withheld under section 552.130. *See Moore v. Charles B. Pierce Film Enters. Inc.*, 589 S.W.2d 489, 491 (Tex. Civ. App.—Texarkana 1979, writ ref'd n.r.e.); *Justice v. Belo Broadcasting Corp.*, 472 F. Supp. 145 (N.D. Tex. 1979); Attorney General Opinions JM-229 (1984) (“the right of privacy lapses upon death”), H-917 (1976) (“We are . . . of the opinion that the Texas courts would follow the almost uniform rule of other jurisdictions that the right of privacy lapses upon death.”); Open Records Decision No. 272 at 1 (1981) (privacy rights lapse upon death). Therefore, the medical examiner's office must withhold the license plate number we have marked under section 552.130 only if a living person owns an interest in the vehicle at issue. If no living person owns an interest in the vehicle at issue, the medical examiner's office may not withhold the marked license plate number pertaining to this vehicle under section 552.130.

In summary, the medical examiner's office must withhold (1) 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, and (2) the copy of a driver's license under section 552.130 of the Government Code. The medical examiner's office must

withhold the license plate number we have marked under section 552.130 of the Government Code only if a living person owns an interest in the vehicle at issue. 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](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,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/dls

Ref: ID# 459888

Enc. Submitted documents

c: Requestor  
(w/o enclosures)