



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 15, 2012

Ms. Donna L. Clarke
Assistant Criminal District Attorney
Lubbock County
P.O. Box 10536
Lubbock, Texas 79408-3536

OR2012-18406

Dear Ms. Clarke:

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# 475428.

The Lubbock County Medical Examiner's Office (the "medical examiner's office") received a request for a specified autopsy report, including photographs. You state some information has been released to the requestor. You claim 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. Section 552.101 encompasses information that 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 [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, § 11. You state the submitted information consists of autopsy photographs, and raise section 11 of article 49.25 of the Code of Criminal Procedure. You also state neither of the statutory exceptions to confidentiality is applicable in this instance. Accordingly, based upon your representations, we find the medical examiner's office must withhold the submitted photographs number two through seventeen and nineteen through eighty-three under section 552.101 of the Government Code in conjunction with section 11 of article 49.25 of the Code of Criminal Procedure. However, we note the remaining photographs, numbers one and eighteen, do not consist of photographs of a body taken during an autopsy. These remaining photographs are not confidential under article 49.25, and the medical examiner's office may not withhold them under section 552.101 on that basis.

In summary, the medical examiner's office must withhold the submitted photographs number two through seventeen and nineteen through eighty-three under section 552.101 of the Government Code in conjunction with section 11 of article 49.25 of the Code of Criminal Procedure. The remaining photographs, numbers one and eighteen, 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 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# 475428

Enc. Submitted documents

c: Requestor
(w/o enclosures)