



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 9, 2013

Ms. Ashley N. Pate  
Potter Minton, P.C.  
500 Plaza Tower  
110 North College  
Tyler, Texas 75702

OR2013-13882

Dear Ms. Pate:

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# 496550.

The Palestine Police Department (the "department"), which you represent, received a request for a specified case file. You claim some of the submitted information is 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 protected by other statutes, such as 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 [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 indicate some of the submitted information consists of photographs of a body taken during an autopsy that are confidential pursuant to section 11 of article 49.25. Upon review, we agree some of the photographs at issue consist of photographs of a body taken during an autopsy. Therefore, provided that neither of the statutory exceptions to confidentiality is applicable in this instance, we find that the department must withhold the photographs we have indicated 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 do not consist of photographs of a body taken during an autopsy. These remaining photographs are not confidential under article 49.25, and the department may not withhold them under section 552.101 on that basis.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, or permit issued by an agency of this state or another state or country is excepted from public release.<sup>1</sup> Gov't Code § 552.130(a)(1). We note the purpose of section 552.130 is to protect the privacy interests of individuals. Some of the driver's license information in the remaining information pertains solely to a deceased individual. 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. App.—Texarkana 1979, writ ref'd n.r.e.); *see also* Attorney General Opinions JM-229 (1984), H-917 (1976); Open Records Decision No. 272 at 1 (1981). Upon review, we find the department must withhold the information we have marked under section 552.130 of the Government Code.

In summary, provided that neither of the statutory exceptions to confidentiality is applicable in this instance, the department must withhold the photographs we have indicated under section 552.101 of the Government Code in conjunction with section 11 of article 49.25 of the Code of Criminal Procedure. The department must withhold the information we have marked under section 552.130 of the Government Code. The department must release the remaining information.<sup>2</sup>

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

<sup>2</sup>We note the remaining information contains social security numbers. Although section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act, this section does not apply to the social security number of a deceased individual. Gov't Code § 552.147(b). Therefore, the department may not withhold the social security number belonging to the deceased individual under section 552.147 of the Government Code.

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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Sean Nottingham  
Assistant Attorney General  
Open Records Division

SN/tch

Ref: ID# 496550

Enc. Submitted documents

c: Requestor  
(w/o enclosures)