



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 12, 2013

Ms. Laura Garza Jimenez
County Attorney
Nueces County
901 Leopard, Room 207
Corpus Christi, Texas 78401-3680

OR2013-13963

Dear Ms. Jimenez:

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# 500675.

The Nueces County Medical Examiner's Office (the "medical examiner") received a request for information pertaining to a named individual. You claim some of the requested information is excepted from disclosure under sections 552.101 and 552.136 of the Government Code. We have considered the exceptions 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 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 [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 inform us the submitted photographs consists of autopsy photographs. You state the statutory exceptions to confidentiality are not applicable in this instance. Based on your representations and our review, we conclude the medical examiner must withhold the submitted photographs, which you have marked, under section 552.101 of the Government Code in conjunction with section 11 of article 49.25 of the Code of Criminal Procedure.

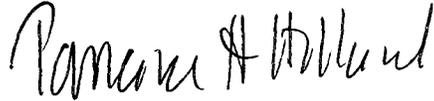
Section 552.136 of the Government Code states that “[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.” Gov’t Code § 552.136(b). Section 552.136(a) defines “access device” as “a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another access device may be used to . . . obtain money, goods, services, or another thing of value [or] initiate a transfer of funds other than a transfer originated solely by paper instrument.” *Id.* § 552.136(a). We note the purpose of section 552.136 is to protect the privacy interests of individuals and the right to privacy lapses at death. *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* Open Records Decision No. 272 at 1 (1981) (privacy rights lapse upon death). Therefore, if the debit card number you have marked, as well as the expiration date we have marked, pertain solely to a deceased individual, they may not be withheld under section 552.136. If the marked debit card number and expiration date pertain to an account in which a living individual has an interest, the medical examiner must withhold this information under section 552.136.

In summary, the medical examiner must withhold the submitted photographs, which you have marked, under section 552.101 of the Government Code in conjunction with section 11 of article 49.25 of the Code of Criminal Procedure. If the debit card number you have marked, as well as the expiration date we have marked, pertain solely to a deceased individual, they may not be withheld under section 552.136 of the Government Code. If the marked debit card number and expiration date pertain to an account in which a living individual has an interest, the medical examiner must withhold this information under section 552.136 of the Government Code. In either instance, the medical examiner 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.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,

A handwritten signature in black ink, appearing to read "Tamara H. Holland". The signature is written in a cursive, flowing style.

Tamara H. Holland
Assistant Attorney General
Open Records Division

THH/bhf

Ref: ID# 500675

Enc. Submitted documents

c: Requestor
(w/o enclosures)