



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 11, 2013

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

OR2013-21555

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# 508544.

The Lubbock County Medical Examiner's Office (the "medical examiner's office") received a request for autopsy photographs of a named deceased individual. You state the medical examiner's office released the autopsy photographs that do not depict the body. You claim the submitted autopsy photographs depicting the body 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. 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 may not be withheld, subject to a discretionary exception under [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. Upon review, we agree the photographs at issue consist of photographs of a body taken during an autopsy. The medical examiner's office states neither of the statutory exceptions to confidentiality applies in this instance. Accordingly, we find the medical examiner's office must withhold the submitted photographs depicting the body under section 552.101 of the Government Code in conjunction with section 11 of article 49.25 of the Code of Criminal Procedure.<sup>1</sup>

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,



Lana L. Freeman  
Assistant Attorney General  
Open Records Division

LLF/akg

Ref: ID# 508544

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>1</sup>We note section 11(b) of article 49.25 of the Code of Criminal Procedure permits a governmental body to withhold a photograph or x-ray described by subsection (a) without the necessity of seeking a decision from the attorney general. Crim. Proc. Code art. 49.25, § 11(b). However, subsection (b) does not affect the required disclosure of a photograph or x-ray under subsection (a)(1) or (2). *Id.*