



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 25, 2014

Mr. Randall Miller  
Assistant District Attorney  
Civil Division  
County of Dallas  
411 Elm Street, 5<sup>th</sup> Floor  
Dallas, Texas 75202

OR2014-13886A

Dear Mr. Miller:

This office issued Open Records Letter No. 2014-13886 (2014) on August 11, 2014. Since that date, we have received new information that affects the facts on which this ruling was based. Consequently, this decision serves as the corrected ruling and is a substitute for the decision issued on August 11, 2014. *See generally* Gov't Code § 552.011 (providing that Office of Attorney General may issue decision to maintain uniformity in application, operation, and interpretation of Public Information Act ("Act")).

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# 534017

Dallas County (the "county") received two requests for information pertaining to the autopsy of a specified individual, including autopsy and toxicology reports, invoices, investigative narratives, and communications between officials of the State of Oklahoma ("Oklahoma") and the county over a specified time period. You indicate a final autopsy report was not completed, and the county did not maintain any responsive invoices, at the time of the

request.<sup>1</sup> You claim portions of the submitted information may be excepted from disclosure under section 552.101 of the Government Code. Additionally, you state the county has notified Oklahoma of the request. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have considered the submitted arguments and reviewed the submitted information, a portion of which constitutes a representative sample.<sup>2</sup>

As background, the specified individual was scheduled to be executed by the Oklahoma Department of Corrections on April 29, 2014. During the execution, complications arose and the process was halted. Nevertheless, the specified individual died and the Governor of Oklahoma ordered an independent review of the events leading up to and during the execution. As part of the independent review, it was determined an autopsy should be performed on the specified individual by an independent entity; Oklahoma selected the county to perform the autopsy. The body of the specified individual was transported to the county and we understand Oklahoma remitted various pieces of information to the county, including photographs of the deceased specified individual and other documentation.

We note the submitted information is responsive to a prior request received by the county, in response to which this office issued Open Records Letter No. 2014-13520A. In that ruling, we concluded: 1) to the extent Oklahoma determines the information it provided to the county constitutes confidential medical information under section 24A.5 of Title 51 of the Oklahoma Statutes, the county must withhold such information under section 552.101 of the Government Code in conjunction with that provision; 2) the information in specified photographs that reveals the identities of the pharmacy and pharmacist who supplied the drugs, the attending physician, and department of corrections personnel who participated in the execution process is confidential under section 1015(B) of Title 22 of the Oklahoma Statutes, and the county must withhold such information pursuant to section 552.101 of the Government Code; and 3) the county must release the remaining submitted information to the respective requestors. We understand there has been no change in the law, facts, or circumstances on which Open Records Letter No. 2014-13520A was based. Thus, we conclude the county must continue to rely on Open Records Letter No. 2014-13520A as a previous determination and withhold or release the submitted information in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous

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<sup>1</sup>We note the Act does not require a governmental body to release information that did not exist when it received a request or create responsive information. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 555 at 1 (1990), 452 at 3 (1986), 362 at 2 (1983).

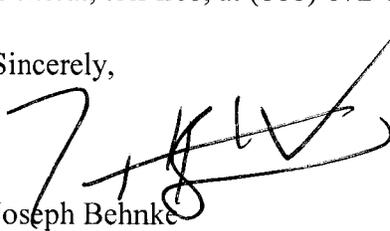
<sup>2</sup>We assume the “representative sample” of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes information is or is not excepted from disclosure).<sup>3</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,



Joseph Behnke  
Assistant Attorney General  
Open Records Division

JB/som

Ref: ID# 534017

Enc. Submitted documents

c: 2 Requestors  
(w/o enclosures)

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<sup>3</sup>As our ruling is dispositive, we need not address the remaining arguments against disclosure.