



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 22, 2014

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

OR2014-01254

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# 511683.

The Lubbock County Medical Examiner's Office (the "medical examiner's office") received a request for a specified autopsy report. You state the medical examiner's office released some of the requested information. You claim 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 in part as follows:

(a) 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(a). Upon review, we agree the photographs we have indicated 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 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.¹ However, we find none of the remaining photographs depict a body and may not be withheld under section 552.101 in conjunction with section 11 of article 49.25 of the Code of Criminal Procedure. As no other exceptions to disclosure have been raised for the remaining photographs, they 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.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,



Megan G. Holloway
Assistant Attorney General
Open Records Division

MGH/dls

Ref: ID# 511683

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹We 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.*