



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

November 12, 2015

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

OR2015-23777

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# 592868.

The Lubbock County Medical Examiner's Office (the "medical examiner's office") received a request for information related to a named deceased individual. 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. Section 552.101 encompasses information subject to chapter 550 of the Transportation Code. Section 550.065 applies only to a written report of an accident required under section 550.061, 550.062, or 601.004. Transp. Code § 550.065(a)(1). Chapter 550 requires the creation of a written report when the accident resulted in injury to or the death of a person or damage to the property of any person to the apparent extent of \$1,000 or more. *Id.* §§ 550.061 (operator's accident report), .062 (officer's accident report). An accident report is privileged and for the confidential use of the Texas Department of Transportation or a local governmental agency of Texas that has use for the information for accident prevention purposes. *Id.* § 550.065(b). However, a governmental entity may release

an accident report in accordance with subsections (c) and (c-1). *Id.* § 550.065(c), (c-1). Section 550.065(c) provides a governmental entity shall release an accident report to a person or entity listed under this subsection. *Id.* § 550.065(c).

In this instance, the requestor is a person listed under section 550.065(c). Accordingly, the requestor has a statutory right of access to the submitted accident report and the medical examiner's office may not withhold the accident report under section 552.101 of the Government Code. Thus, the medical examiner's office must release the accident report to this requestor pursuant to section 550.065(c) of the Transportation Code.

Section 552.101 of the Government Code also encompasses information protected by 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.

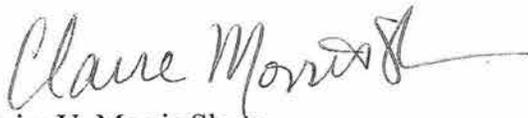
Crim. Proc. Code art. 49.25 § 11(a). You state the submitted autopsy photographs are confidential pursuant to section 11 of article 49.25. Upon review, we agree some of the photographs at issue consist of photographs of a body taken during an autopsy. You state neither of the statutory exceptions to confidentiality is applicable in this instance. Accordingly, we find the medical examiner's office must withhold the photographs of a body taken during an autopsy under section 552.101 of the Government Code in conjunction with section 11 of article 49.25 of the Code of Criminal Procedure. However, the medical examiner's office may not withhold the remaining photographs, which do not consist of photographs taken of a body during an autopsy, under section 552.101 of the Government Code on that basis.

In summary, the medical examiner's office must release the accident report to this requestor pursuant to section 550.065(c) of the Transportation Code. The medical examiner's office must withhold the photographs of a body taken during an autopsy under section 552.101 of the Government Code in conjunction with section 11 of article 49.25 of the Code of Criminal Procedure. The medical examiner's office 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](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,



Claire V. Morris Sloan  
Assistant Attorney General  
Open Records Division

CVMS/som

Ref: ID# 592868

Enc. Submitted documents

c: Requestor  
(w/o enclosures)