



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 21, 2016

Ms. Yvette Aguilar
Assistant City Attorney
City of Corpus Christi
P. O. Box 9277
Corpus Christi, Texas 78469-9277

OR2016-23683

Dear Ms. Aguilar:

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# 631481 (CCPD File#: ULeg1).

The Corpus Christi Police Department (the "department") received a request for photographs pertaining to a specified incident. You state you will release some information. You state you will redact some of the information pursuant to section 552.130(c) of the Government Code.¹ You claim the submitted information is excepted from disclosure under sections 552.101 and 552.1085 of the Government Code. You also state you notified a third party of the request.² *See* Gov't Code § 552.304 (permitting interested third party to submit to attorney general reasons why requested information should or should not be released). We have considered the submitted arguments 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

¹Section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e).

²We have received comments from the third party.

Code § 552.101. This section encompasses information protected by other statutes, including section 11 of article 49.25 of the Code of Criminal Procedure, which provides 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). You state some of the submitted information consists of photographs of the decedent's body taken during an autopsy. You do not indicate either of the statutory exceptions to confidentiality are applicable in this instance. Accordingly, we find the department must withhold the information we marked under section 552.101 of the Government Code in conjunction with section 11 of article 49.25 of the Code of Criminal Procedure. However, we note the remaining information you marked does not consist of photographs or x-rays of a body taken during an autopsy. Thus, the remaining information at issue is not confidential under article 49.25, and the department may not withhold it under section 552.101 on that basis.

Section 552.1085 of the Government Code provides, in pertinent part, the following:

(c) A sensitive crime scene image in the custody of a governmental body is confidential and excepted from the requirements of Section 552.021 and a governmental body may not permit a person to view or copy the image except as provided by this section. This section applies to any sensitive crime scene image regardless of the date that the image was taken or recorded.

Gov't Code § 552.1085(c). For purposes of section 552.1085, "sensitive crime scene image" means "a photograph or video recording taken at a crime scene, contained in or part of a closed criminal case, that depicts a deceased person in a state of dismemberment, decapitation, or similar mutilation or that depicts the deceased person's genitalia." *See id.* § 552.1085(a)(6). Upon review, we find the remaining information does not consist of sensitive crime scene images for purposes of section 552.1085. Thus, the department may not withhold any portion of the remaining information under section 552.1085 of the Government Code.

In summary, the department must withhold the information we marked under section 552.101 of the Government Code in conjunction with section 11 of article 49.25 of the Code of Criminal Procedure. The department must release the remaining information.³

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,



Emily Kunst
Assistant Attorney General
Open Records Division

EK/eb

Ref: ID# 631481

Enc. Submitted documents

c: Requestor
(w/o enclosures)

³We note the requestor has a special right of access to some of the information being released in this instance. See Gov't Code § 552.023(a) (governmental body may not deny access to person to whom information relates, or that party's representative, solely on grounds that information is considered confidential by privacy principles). Because such information is confidential with respect to the general public, if the department receives another request for this information from a different requestor, then the department should again seek a ruling from this office.