



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

January 26, 2017

Mr. Brandon Dyson  
Assistant City Attorney  
Office of the City Attorney  
City of San Angelo  
72 West College Avenue  
San Angelo, Texas 76903

OR2017-01851

Dear Mr. Dyson:

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# 643335 (City File No. 17-065).

The San Angelo Police Department (the "department") received a request for photographs pertaining to a specified incident. You state the department will release some of the requested information. You claim the submitted information is excepted from disclosure under section 552.1085 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

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

(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). You state the submitted photographs are contained in or part of a closed criminal case. Upon review, however, we find the submitted photographs do not consist of sensitive crime scene images for the purposes of section 552.1085. Thus, the department may not withhold the submitted photographs under section 552.1085 of the Government Code.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."<sup>1</sup> *Id.* § 552.101. Section 552.101 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(a). Some of the submitted photographs, which we have indicated, consist of photographs of a body taken during an autopsy. We note neither of the statutory exceptions to confidentiality is applicable in this instance. Accordingly, we find the department 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. As you raise no further exceptions to disclosure, the department must release the remaining submitted photographs.

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.

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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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,



Sidney M. Pounds  
Assistant Attorney General  
Open Records Division

SMP/sdk

Ref: ID# 643335

Enc. Submitted documents

c: Requestor  
(w/o enclosures)