



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 15, 2017

Mr. Oscar G. Gablodón
Assistant City Attorney
City of El Paso
P.O. Box 1890
El Paso, Texas 79950-1890

OR2017-10414

Dear Mr. Gablodón:

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# 657914 (City's Case# 17-1026-8285).

The El Paso Police Department (the "department") received a request for information pertaining to a specified incident. You state you have released most of the requested information. You claim the submitted information is excepted from disclosure under section 552.1085 of the Government Code.¹ 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, 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

¹Although you also raise section 552.101 in conjunction with common-law privacy and constitutional privacy for the submitted information, you provide no arguments explaining how these doctrines are applicable to the information at issue. Therefore, we assume you no longer assert these doctrines. See Gov't Code §§ 552.301, .302.

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 information consists of photographs of a body taken during an autopsy. We understand neither of the statutory exceptions to confidentiality is applicable in this instance. Accordingly, we find the department must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 11 of article 49.25 of the Code of Criminal Procedure.²

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,



Patrick P. Mehaffy
Assistant Attorney General
Open Records Division

PPM/eb

²As our ruling is dispositive, we need not address your argument against disclosure of this information.

Ref: ID# 657914

Enc. Submitted documents

c: Requestor
(w/o enclosures)