



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 16, 2019

Mr. Evan D. Reed
Assistant City Attorney
City of El Paso
P.O. Box 1890
El Paso, Texas 79950-1890

OR2019-01461

Dear Mr. Reed:

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# 744235 (Ref. No. 18-1026-9873).

The El Paso Police Department (the "department") received a request for all police records pertaining to a specified accident. You have released some information to the requestor. You claim the submitted information is excepted from disclosure under section 552.1085 of the Government Code.¹ We note you notified the deceased individual's family of the request for information and of the right to submit comments to this office as to why the submitted information should not be released.² *See Gov't Code § 552.304* (interested party may submit comments stating why information should or should not be released). We have considered the exception you claim and reviewed the submitted information.

Section 552.1085 of the Government Code provides, in relevant 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

¹Although you also raise section 552.101 of the Government Code 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.*

²As of the date of this letter, we have not received comments from the interested third party.

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 assert the submitted video recordings consist of sensitive crime scene images and indicate they are part of a closed criminal case. Further, we note none of the exceptions in section 552.1085 apply in this instance. Based on your representations and our review, we find portions of the submitted video recordings consist of sensitive crime scene images for purposes of section 552.1085. Accordingly, the department must withhold the portions of the submitted video recordings consisting of sensitive crime scene images under section 552.1085(c) of the Government Code. The department must release the remaining submitted 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, 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,



Lecelle Clarke
Attorney
Open Records Division

LC/eb

Ref: ID# 744235

Enc. Submitted documents

c: Requestor
(w/o enclosures)