



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 29, 2019

Ms. Kristen Mills
Open Records Specialist
Baytown Police Department
3200 North Main Street
Baytown, Texas 77521

OR2019-02585

Dear Ms. Mills:

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# 748045 (PIR# 12859).

The Baytown Police Department (the "department") received a request for information pertaining to a specified accident.¹ 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.

¹The department informs us it sent the requestor an estimate of charges pursuant to section 552.2615 of the Government Code. *See* Gov't Code § 552.2615. The estimate of charges required the requestor to provide a deposit for payment of anticipated costs under section 552.263 of the Government Code. *See id.* § 552.263(a).

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). The department states the submitted photographs consist of sensitive crime scene images. We understand the information at issue relates to a closed criminal case. Based on these representations and our review, we find some of the submitted photographs, which we have indicated, consist of sensitive crime scene images for purposes of section 552.1085.

However, the requestor may represent the next of kin of the deceased person depicted in the photographs at issue under section 552.1085. *See id.* § 552.1085(a)(1) (defining "deceased person's next of kin"). In that event, the requestor would have a right to view or copy the photographs at issue pursuant to section 552.1085(d)(1). *See id.* § 552.1085(d)(1). As we are unable to determine whether the requestor represents the deceased person's next of kin, we must rule conditionally. If the requestor does not represent the deceased person's next of kin, the department must withhold the photographs we have indicated under section 552.1085(c) of the Government Code. If the requestor does represent the deceased person's next of kin, then the department may not withhold the photographs at issue pursuant to section 552.1085 and they must be released to the requestor. In either event, we find the remaining submitted photographs do not consist of sensitive crime scene images for purposes of section 552.1085 of the Government Code and may not be withheld on that basis. As no further exceptions to disclosure are raised for this information, it must be released.

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,



Katherine Stark
Attorney
Open Records Division

KS/mo

Ref: ID# 748045

Enc. Submitted documents

c: Requestor
(w/o enclosures)