



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

September 5, 2019

Ms. Evette P. Ugues  
Assistant County Attorney  
City of El Paso  
500 East San Antonio, Room 503  
El Paso, Texas 79901

OR2019-24830

Dear Ms. Ugues:

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# 784384 (File No. OP-19-599).

The El Paso Medical Examiner's Office (the "medical examiner's office") received a request for records related to a specified individual. You state you will redact certain information under sections 552.130(c) and 552.147(b) of the Government Code and dates of birth pursuant to the previous determination issued in Open Records Letter No. 2017-01706 (2017).<sup>1</sup> You claim some of the submitted information is excepted from disclosure under sections 552.101 and 552.1175 of the Government Code.<sup>1</sup> We have considered the exceptions you claim and reviewed the submitted information.

---

<sup>1</sup> Section 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). Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. *Id.* § 552.147. Open Records Letter No. 2017-01706 is a previous determination issued to the medical examiner's office authorizing it to withhold the dates of birth of public citizens under section 552.101 of the Government Code in conjunction with common-law privacy without requesting a decision from this office.

<sup>2</sup> Although you raise section 552.117 of the Government Code, we note section 552.1175 of the Government Code is the proper exception to raise for information not held in an employment context.

Section 552.101 of the Government Code exempts information considered to be confidential by law, either constitutional, statutory, or by judicial decision. Gov't Code §552.101. Section 552.101 of the Government Code encompasses section 11(a) of article 49.25 of the Code of Criminal Procedure, which reads 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). Upon review, we find some of the remaining information at issue consists of photographs of a body taken during an autopsy. The autopsy photographs at issue are confidential pursuant to section 11 of article 49.25. You do not indicate either of the statutory exceptions to confidentiality is applicable in this instance. Accordingly, the medical examiner's office must withhold the information in Attachment C under section 552.101 of the Government Code in conjunction with section 11 of article 49.25 of the Code of Criminal Procedure.<sup>2</sup>

Section 552.101 of the Government Code also encompasses Chapter 772 of the Health and Safety Code, which authorizes the development of local emergency communication districts. Sections 772.118, 772.218, and 772.318 of the Health and Safety Code are applicable to emergency 9-1-1 districts established in accordance with chapter 772. *See* Open Records Decision No. 649 (1996). These sections make the originating telephone numbers and addresses of 9-1-1 callers furnished by a service supplier confidential. *Id.* at 2. Section 772.318 of the Health and Safety Code applies to an emergency communication district for a county with a population of more than 20,000. Section 772.218 applies to an emergency communication district for a county with a population of more than 1.5 million, and section 772.118 is applicable to a county with a population of more than 3.3 million.

You state that El Paso County has a population of over 800,000 and is part of an emergency communication district established under chapter 772. To the extent the telephone numbers and addresses you have marked are the originating telephone numbers and addresses provided by a 9-1-1 service supplier, the medical examiner's office must withhold this

---

<sup>2</sup> We note, section 11(b) of Article 49.25 of the Code of Criminal Procedure permits a governmental body to withhold a photograph or x-ray taken during an autopsy without requesting a ruling from this office. Crim. Proc. Code art. 49.25, § 11(b).

information under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. To the extent the marked telephone numbers and addresses were not supplied by a 9-1-1 service supplier, section 772.318 is not applicable, and the medical examiner's office may not withhold that information under section 552.101 of the Government Code on that basis.

Section 552.1175 of the Government Code protects the home address, home telephone number, emergency contact information, date of birth, social security number, and family member information of certain individuals, when that information is held by a governmental body in a non-employment capacity and the individual elects to keep the information confidential. Gov't Code § 552.1175. Section 552.1175 applies, in part, to "a firefighter or volunteer firefighter or emergency medical services personnel as defined by section 773.003, Health and Safety Code." Act of May 27, 2019, 86th Leg., R.S., H.B. 2446, § 6 (to be codified at Gov't Code § 552.1175(a)(15)). We note section 552.1175 is also applicable to personal cellular telephone numbers, provided the cellular telephone service is not paid by a governmental body. *See* Open Records Decision No. 506 a 5-6 (1988). Accordingly, to the extent the information at issue, which you marked, consists of the home or personal cellular telephone numbers of individuals who are subject to section 552.1175(a) and who elect to restrict access to the information in accordance with section 552.1175(b), the medical examiner's office must withhold the information under section 552.1175 of the Government Code; however, to the extent the telephone numbers are personal cellular telephone numbers, they may only be withheld if a governmental body does not pay for the cellular telephone service. Conversely, if the individuals whose information is at issue are not individuals who are subject to section 552.1175(a) or do not elect to restrict access to their information in accordance with section 552.1175(b) this information may not be withheld under section 552.1175.

In summary, the medical examiner's office must withhold the information in Attachment C under section 552.101 of the Government Code in conjunction with section 11 of article 49.25 of the Code of Criminal Procedure. To the extent the telephone numbers and addresses you have marked are the originating telephone numbers and addresses provided by a 9-1-1 service supplier, the medical examiner's office must withhold this information under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. To the extent the information at issue, which you marked, consists of the home or personal cellular telephone numbers of individuals who are subject to section 552.1175(a) and who elect to restrict access to the information in accordance with section 552.1175(b), the medical examiner's office must withhold the information under section 552.1175 of the Government Code; however, to the extent the telephone numbers are personal cellular telephone numbers, they may only be withheld if a governmental body does not pay for the cellular telephone service. The remaining information 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



Sean McCormick  
Attorney  
Open Records Division

SMC/eb

Ref: ID# 784384

Enc. Submitted documents

c: Requestor  
(w/o enclosures)