



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 30, 2020

Mr. Carlos G. Madrid
Assistant County Attorney
El Paso County Attorney's Office
500 East San Antonio Room 503
El Paso, Texas 79901

OR2020-18992

Dear Mr. Madrid:

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# 839546 (ORR# 0352-20-PI).

The El Paso County Sheriff's Office (the "sheriff's office") received a request for several categories of information related case number 2018-00402. The sheriff's office claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception the sheriff's office claims and reviewed the submitted information.

Initially, we note the sheriff's office has not submitted information responsive to all of the categories of information to which the requestor seeks access. To the extent any additional responsive information existed on the date the sheriff's office received the request, we assume the sheriff's office has released it. If the sheriff's office has not released any such information, it must do so at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

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, 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). Upon review, we find some of the submitted information consists of x-rays or photographs of a body taken during an autopsy. The sheriff's office does not indicate either of the statutory exceptions to confidentiality is applicable in this instance. Thus, the submitted autopsy x-rays and photographs, which we noted, are confidential pursuant to section 11 of article 49.25. Accordingly, we find the sheriff's office must withhold the x-rays and photographs we noted under section 552.101 of the Government Code in conjunction with section 11 of article 49.25 of the Code of Criminal Procedure. However, the remaining photographs do not consist of photographs or x-rays of a body taken during an autopsy. Thus, section 11 of article 49.25 of the Code of Criminal Procedure is not applicable to any of the remaining information, and the sheriff's office may not withhold the remaining information under section 552.101 on that basis.

We note some of the remaining information is subject to section 552.130 of the Government Code.¹ Section 552.130 provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *See* Gov't Code § 552.130. Accordingly, the sheriff's office must withhold the motor vehicle record information we marked under section 552.130 of the Government Code.

In summary, the sheriff's office must withhold the x-rays and photographs we noted under section 552.101 of the Government Code in conjunction with section 11 of article 49.25 of the Code of Criminal Procedure. The sheriff's office must withhold the motor vehicle record information we marked under section 552.130 of the Government Code. The sheriff's office must release the remaining 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.

¹ 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 <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,

Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/rm

Ref: ID# 839546

Enc. Submitted documents

c: Requestor
(w/o enclosures)