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ATTORNEY GENERAL OF TEXAS

May 2, 2022

Ms. Tessa K. Meredith
Counsel for the City of Valley View
Denton, Navarro, Rocha, Bernal & Zech, P.C.
2500 West William Cannon Drive, Suite 609
Austin, Texas 78745-5320

OR2022-12437

Dear Ms. Meredith:

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# 945011 (VV020722SM).

The City of Valley View (the "city"), which you represent, received a request for information pertaining to a specified incident. You state the city has released 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.

(d) Notwithstanding Subsection (c) and subject to Subsection (e), the following persons may view or copy information that constitutes a sensitive crime scene image from a governmental body:

(1) the deceased person's next of kin[.]

...

(e) This section does not prohibit a governmental body from asserting an exception to disclosure of a sensitive crime scene image to a person identified in Subsection (d) on the grounds that the image is excepted from the requirements of Section 552.021 under another provision of this chapter or another law.

Gov't Code § 552.1085(c), (d)(1), (e). 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). Upon review, we find the information we marked consists of sensitive crime scene images.

However, the requestor may be the next of kin of the deceased person depicted in the photographs at issue. *See id.* § 552.1085(a)(1) (defining "deceased person's next of kin"). If the requestor is the deceased person's next of kin, then she has a right to view or copy the information at issue pursuant to section 552.1085(d)(1) of the Government Code. *See id.* § 552.1085(d)(1). Therefore, the city must withhold the information we marked under section 552.1085(c) of the Government Code, unless the requestor has a right of access to it pursuant to section 552.1085(d)(1) of the Government Code. However, we find you have failed to demonstrate any of the remaining information consists of sensitive crime scene images for the purposes of section 552.1085. Accordingly, the city may not withhold any of the remaining information under section 552.1085(c) of the Government Code. As no further exceptions to disclosure have been raised, the city 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.

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,

Jennifer Copeland
Assistant Attorney General
Open Records Division

JC/be

Ref: ID# 945011

Enc. Submitted documents

c: Requestor
(w/o enclosures)