



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 28, 2022

Mr. James Kopp
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78207

OR2022-33564

Dear Mr. Kopp:

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# 981335 (COSA File No. W464584).

The City of San Antonio (the "city") received a request for the complete case file pertaining to a specified city case, including all police reports, photographs, and witness statements. 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.

Initially, we note you have submitted only photographs pertaining to the case specified in the present request. Additionally, you do not inform us the city has released any information to the requestor. Although you state the city has submitted a representative sample of the requested information, we find the submitted information is not representative of all the types of information to which the requestor seeks access. Please be advised, this open records letter ruling applies only to the types of information the city has submitted for our review. This ruling does not authorize the city to withhold any information that is substantially different from the types of information you submitted to this office. *See* Gov't Code § 552.302 (where request for attorney general decision does not comply with requirements of Gov't Code § 552.301, information at issue is presumed to be public).

Accordingly, to the extent any information responsive to the remaining portions of the present request existed on the date the city received the request, we assume the city has released it to the requestor. If the city has not released any such information, it must do so at this time. *See id.* §§ 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 552.1085 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 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 state the submitted photographs consist of sensitive crime scene images made confidential by section 552.1085. We understand the photographs were taken at a crime scene as part of a criminal case that is now closed. Further, we have no indication any of the exceptions in section 552.1085 apply in this instance. Based on your representations and our review, we find some of the photographs at issue, which we have indicated, consist of sensitive crime scene images for the purposes of section 552.1085. Accordingly, the city must withhold the photographs we have indicated under section 552.1085(c) of the Government Code. However, we find none of the remaining photographs consist of sensitive crime scene images for the purposes of section 552.1085. Therefore, the city may not withhold any portion of the remaining information under section 552.1085(c). 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

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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,

Blake Brennan
Assistant Attorney General
Open Records Division

BBX/pt

Ref: ID# 981335

Enc. Submitted documents

c: Requestor
(w/o enclosures)