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ATTORNEY GENERAL OF TEXAS

March 28, 2016

Ms. Marium Uddin  
Assistant District Attorney  
Civil Division  
Dallas County District Attorney's Office  
411 Elm Street, 5th Floor  
Dallas, Texas 75202

OR2016-06874

Dear Ms. Uddin:

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# 602862.

The Dallas County Medical Examiner's Office (the "medical examiner's office") received a request for the reports related to a specified death. The medical examiner's office claims the submitted information is excepted from disclosure under section 552.108 of the Government Code.<sup>1</sup> We have considered the claimed exception and reviewed the submitted information.

Section 552.108(a) excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if: (1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]" Gov't Code § 552.108(a)(1). Generally, a governmental body claiming section 552.108(a)(1) must reasonably explain how and why release of the requested

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<sup>1</sup>Although the medical examiner's office also asserts section 552.101 of the Government Code in conjunction with section 552.108 of the Government Code, this office has concluded section 552.101 does not encompass other exceptions found in the Act. See Open Records Decision Nos. 676 at 1-2 (2002), 575 at 2 (1990). Accordingly, we do not address section 552.101.

information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(a); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). Section 552.108 may be invoked by the proper custodian of information relating to a pending investigation or prosecution of criminal conduct. *See Open Records Decision No. 474 at 4-5 (1987)*. Where a governmental body has custody of information relating to a pending case of a law enforcement agency, the custodian of the records may withhold the information if it provides this office with a demonstration that the information relates to the pending case and a representation from the law enforcement agency that it wishes to withhold the information. The medical examiner's office informs this office the Texas Alcoholic Beverage Commission (the "commission") objects to release of the information.

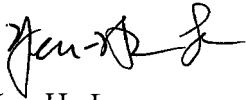
By its terms, section 552.108 applies only to a law enforcement agency or a prosecutor. The commission's Enforcement Division is a law enforcement agency. *See Alco. Bev. Code* §§ 5.14 (commission may commission inspectors with police powers to enforce Alcoholic Beverage Code), .36 (commission shall investigate violations of Alcoholic Beverage Code and other laws relating to alcoholic beverages), .361 (commission shall develop risk-based approach to enforcement). The commission objects to release of the information because its "Office of Professional Responsibility has an *open critical incident investigation* that deals with the events that involve" the specified death. (Emphasis in original). We note section 552.108 is generally not applicable to purely administrative records that do not involve the investigation or prosecution of crime. *See City of Fort Worth v. Cornyn*, 86 S.W.3d 320 (Tex. App.—Austin 2002, no pet.); *Morales v. Ellen*, 840 S.W.2d 519, 525-26 (Tex. Civ. App.—El Paso 1992, writ denied) (statutory predecessor to section 552.108 not applicable to internal investigation that did not result in criminal investigation or prosecution); *see also Open Records Decision No. 350 at 3-4 (1982)*. Upon review of the commission's representation, we conclude it has not demonstrated its open investigation involves the investigation of a crime, that is, violations of the Alcoholic Beverage Code or other laws relating to alcoholic beverages, rather than an internal, personnel and administrative investigation only. Thus, the commission failed to demonstrate the applicability of section 552.108(a)(1). Accordingly, the medical examiner's office may not withhold the submitted information on behalf of the commission under section 552.108(a)(1) of the Government Code. The medical examiner's office must release the 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 [http://www.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](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,



Yen-Ha Le  
Assistant Attorney General  
Open Records Division

YHL/sdk

Ref: ID# 602862

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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(w/o enclosures)