



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

January 26, 2017

Mr. Kent A. Brown  
Assistant County Attorney  
Nueces County Attorney's Office  
901 Leopard Street, Room 207  
Corpus Christi, Texas 78401-3680

OR2017-01751

Dear Mr. Brown:

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# 643119.

The Nueces County Medical Examiner's Office (the "medical examiner's office") received a request for the medical examiner's report pertaining to a named individual. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.108(a)(2) of the Government Code excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]" Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). By its terms, section 552.108 of the Government Code applies only to a law enforcement agency or a prosecutor. This office has concluded, however, that section 552.108 may be invoked by any proper custodian of information that relates to the underlying incident. *See Open Records Decision Nos. 474 (1987), 372 (1983).* Where a non-law enforcement agency has custody

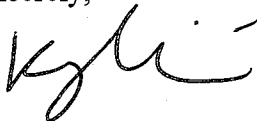
of information related to a concluded criminal case of a law enforcement agency, the custodian of the records may withhold the information if it provides this office with a demonstration that the information is related to a criminal case that has reached a conclusion other than a conviction or a deferred adjudication and a representation from a law enforcement entity that it wishes to have the information withheld.

You state the submitted information relates to an investigation conducted by the Nueces County Sheriff's Office (the "sheriff's office"). However, you have not provided this office with a representation from the sheriff's office stating the sheriff's office objects to disclosure of the information at issue. Accordingly, we find you have failed to demonstrate the applicability of section 552.108(a)(2) to the submitted information. Therefore, the medical examiner's office may not withhold the submitted information under section 552.108(a)(2). As you raise no further exceptions to disclosure, the medical examiner's office must release the submitted 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,



Kieran Hillis  
Assistant Attorney General  
Open Records Division

KH/sb

Ref: ID# 643119

Enc. Submitted documents

c: Requestor  
(w/o enclosures)