



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

August 7, 2017

Ms. Diana Spiller  
Research Specialist/Public Information Coordinator  
Texas Commission on Jail Standards  
P.O. Box 12985  
Austin, Texas 78711

OR2017-17705

Dear Ms. Spiller:

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# 670341.

The Texas Commission on Jail Standards (the "commission") received a request for all documents pertaining to the commission's investigation of the custodial death of 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)(1) 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 . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]" Gov't Code § 552.108(a)(1). A governmental body claiming section 552.108(a)(1) must explain how and why the release of the requested 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). By its terms, section 552.108 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 incident. *See Open Records Decision Nos. 474 (1987), 372 (1983)*. Where a non-law enforcement agency has custody of information that would otherwise qualify for exception under section 552.108 as information relating to the 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 have the information withheld. You state the submitted information pertains to a pending prosecution by the Harris County District Attorney's Office (the "district attorney's office"). You further state, and provide a representation from the district attorney's office showing, the district attorney's office objects to disclosure of the submitted information because release of the information would interfere with the district attorney's office's ongoing criminal prosecution. Based on these representations and our review, we agree release of the submitted information would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, section 552.108(a)(1) is applicable to the submitted information. Accordingly, the commission may withhold the submitted information under section 552.108(a)(1) of the Government Code on behalf of the district attorney's office.

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# 670341

Enc. Submitted documents

c: Requestor  
(w/o enclosures)