



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 16, 2019

Ms. Ann-Marie Sheely
Assistant County Attorney
Travis County
P.O. Box 1748
Austin, Texas 78767

OR2019-01338

Dear Ms. Sheely:

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# 746344.

The Travis County Medical Examiner's Office (the "medical examiner's office") received a request for information pertaining to a deceased individual. The medical examiner's office claims the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the claimed exception and reviewed the submitted information.

Initially, we note the requestor, a representative of the Texas Department of State Health Services (the "department") Maternal Mortality and Morbidity Task Force (the "task force"), asserts she has a right of access to the requested information under section 34.008 of the Health and Safety Code. The task force is a multidisciplinary advisory committee administered by the department that studies and reviews information related to cases of pregnancy-related deaths and severe maternal morbidity. *See* Health & Safety Code §§ 34.002(a)-(b), .005. Pursuant to section 34.007, the department determines a statistically significant number of pregnancy-related death cases and randomly selects such cases for review by the task force, and analyzes aggregate data of severe maternal morbidity to identify trends and, if feasible, selects severe maternal morbidity cases for review. *See id.* § 34.007. Section 34.008 provides, in relevant part, the following:

- (a) On selecting a case of pregnancy-related death or severe maternal morbidity for review, the department shall, in accordance with this section,

obtain information relevant to the case to enable the task force to review the case. The department shall provide the information to the task force.

...

(c) On the request of the department, a hospital, birthing center, or other custodian of the requested information shall provide the information to the department. The information shall be provided without the authorization of the patient or, if the patient is deceased, without the authorization of the patient's family.

Id. § 34.008(a), (c). Thus, the department has a right of access to information pertaining to cases of pregnancy-related death or severe maternal morbidity. Section 34.001 of the Health and Safety Code provides, in relevant part, the following:

(8) "Maternal morbidity" means a pregnancy-related health condition occurring during pregnancy, labor, or delivery or within one year of delivery or end of pregnancy.

...

(12) "Pregnancy-related death" means the death of a woman while pregnant or within one year of delivery or end of pregnancy, regardless of the duration and site of the pregnancy, from any cause related to or aggravated by the pregnancy or its management, but not from accidental or incidental causes.

(13) "Severe maternal morbidity" means maternal morbidity that constitutes a life-threatening condition.

Id. § 34.001(8), (12), (13). Upon review, we find the department has failed to demonstrate, and we are unable to determine, the submitted information is relevant to cases of pregnancy-related death or severe maternal morbidity. Consequently, we conclude the requestor has not established a right of access to the submitted information pursuant to section 34.008 of the Health and Safety Code. Therefore, we will address the arguments of the medical examiner's office to withhold the information at issue.


Section 552.108(a) 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: (1) 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 information at issue 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, 710 (Tex. 1977). Section 552.108 may be invoked by the proper custodian of information relating to an investigation or prosecution of criminal conduct. Open Records Decision No. 474 at 4-5 (1987). Where a

non-law enforcement agency possesses information relating to a pending case of a law enforcement agency, the non-law enforcement agency may withhold the information under section 552.108(a)(1) if it demonstrates the information relates to the pending case and provides this office with a representation from the law enforcement agency that wishes to withhold the information. The medical examiner's office has submitted an representation from the Travis County Sheriff's Office (the "sheriff's office") in which the sheriff's office objects to the release of the requested information because it pertains to a pending criminal investigation or prosecution. Based on these representations, we conclude the 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, 186-87 (Tex. Civ. App.—Houston [14th Dist.] 1975) (delineating law enforcement interests present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Therefore, the medical examiner's office may withhold the submitted information on behalf of the sheriff's office under section 552.108(a)(1) of the Government Code.

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, 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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/mo

Ref: ID# 746344

Enc. Submitted documents

c: Requestor
(w/o enclosures)