



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 12, 2019

Mr. Michael Bloch
Deputy District Attorney
Ector County
300 North Grant, Room 305
Odessa, Texas 79761

OR2019-06787

Dear Mr. Bloch:

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# 761480.

The Ector County Medical Examiner's Office (the "medical examiner's office") received a request for a specified autopsy report. The medical examiner's office claims the submitted information is excepted from disclosure under section 552.108 of the Government Code.¹ We have considered the exception the medical examiner's office claims 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,

¹We note the medical examiner's office did not comply with section 552.301 of the Government Code in requesting a ruling from this office. *See* Gov't Code § 552.301(e). However, the need of a law enforcement agency other than the agency that is seeking an open records decision to withhold information under section 552.108 of the Government Code can provide a compelling reason sufficient to overcome the presumption of openness. *See* Open Records Decision No. 586 at 3 (1991). Accordingly, we will consider whether the medical examiner's office may withhold the submitted information on behalf of another law enforcement agency. Although the medical examiner's office also raises section 552.101 of the Government Code, the medical examiner's office has not provided any arguments to support this exception. Therefore, we assume the medical examiner's office has withdrawn its claim this section applies to the submitted information. *See* Gov't Code §§ 552.301, .302.

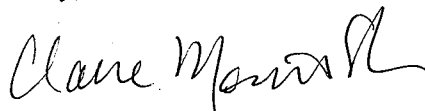
investigation, or prosecution of crime[.]” Gov’t Code § 552.108(a)(1). A governmental body claiming section 552.108(a)(1) must explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). 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 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 the information relates to the pending case and a representation from the law enforcement agency that it wishes to have the information withheld.

The medical examiner’s office states the Ector County District Attorney’s Office (the “district attorney’s office”) has advised the submitted information is related to an active criminal investigation, and the district attorney’s office objects to disclosure of the information at issue because its release would interfere with the investigation. Based on these representations, we conclude the medical examiner’s office may withhold the information under section 552.108(a)(1) of the Government Code on behalf of the district attorney’s office. *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).

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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/jxd

Ref: ID# 761480

Enc. Submitted documents

c: Requestor
(w/o enclosures)