



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 2, 2019

Ms. Agatha Wade
Assistant Criminal District Attorney
Bexar County
101 West Nueva
San Antonio, Texas 78205

OR2019-11698

Dear Ms. Wade:

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# 763239 (BCCDA #7196; ME #18-2693; 2018-BCSO-043196).

The Bexar County Medical Examiner's Office (the "medical examiner's office") received a request for information pertaining to a specified autopsy. 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). 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.

You state, and provide documentation showing, the Bexar County Sheriff's Office (the "sheriff's office") has advised the medical examiner's office the submitted information is related to an active criminal investigation. Further, the sheriff'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 submitted information under section 552.108(a)(1) of the Government Code on behalf of the sheriff'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).

Finally, you also ask this office to issue a previous determination permitting the medical examiner's office to withhold information subject to section 552.108(a)(1) of the Government Code without first seeking a ruling from this office. *See Gov't Code* § 552.301(a) (allowing governmental body to withhold information subject to previous determination); Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code). We decline to issue such a previous determination at this time. Accordingly, this letter ruling is limited to the particular records 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 records 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,



Ramsey A. Abarca
Assistant Attorney General
Open Records Division

RAA/jxd

Ref: ID# 763239

Enc. Submitted documents

c: Requestor
(w/o enclosures)