



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 24, 2020

Ms. Jennifer Slack
Assistant District Attorney
Lubbock County
P.O. Box 10536
Lubbock, Texas 79408

OR2020-11685

Dear Ms. Slack:

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# 822241 (ORR.1932).

The Lubbock County Medical Examiner's Office (the "medical examiner's office") received a request for a specified autopsy report. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. You also state release of the submitted information may implicate the interests of the Hobbs Police Department (the "department") and the Lea County District Attorney's Office (the "district attorney's office"). Accordingly, you state, and provide documentation showing, you notified the department and the district attorney's office of the request for information and of their right to submit arguments to this office as to why the submitted information should not be released.¹ *See* Gov't Code § 552.304 (interested third party may submit comments stating why information should or should not be released). 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[.]" *Id.* § 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

¹ As of the date of this letter, we have not received any comments from any of the interested third parties explaining why any portion of the submitted information should not be released to the requestor.

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 the submitted information pertains to a pending criminal investigation. However, we have not received any correspondence from the department or the district attorney's office, and you have not provided our office with any representation to indicate the department or district attorney's office wishes to have the information at issue withheld. Accordingly, we find you have failed to demonstrate section 552.108(a)(1) is applicable to the information at issue, and the medical examiner's office may not withhold the submitted information under section 552.108(a)(1) of the Government Code. 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Katie Stallcup
Attorney
Open Records Division

AKS/mo

Ref: ID# 822241

Enc. Submitted documents

c: Requestor
(w/o enclosures)

2 Third Parties
(w/o enclosures)