



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

July 27, 2020

Mr. Mark Kratovil  
Assistant Criminal District Attorney  
Tarrant County Criminal District Attorney's Office  
401 West Belknap  
Fort Worth, Texas 76196

OR2020-18665

Dear Mr. Kratovil:

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# 838692.

The Tarrant 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. We have considered the exception the medical examiner's office claims and reviewed the submitted information. We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Initially, the requestor contends his request for the autopsy report at issue was not a request for public information under the Act. However, the instant request to the medical examiner's office was in writing and seeks information that existed when the request was submitted to the medical examiner's office. Further, the medical examiner's office submitted information as responsive to the request and made arguments against its disclosure. Because the medical examiner's office has requested a decision on the submitted information and otherwise treated the request as having triggered its obligations under the Act, we will address the medical examiner's office's claimed exception to disclosure of the requested information under the Act.

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.

The medical examiner’s office states the submitted information relates to an active criminal investigation and prosecution. Further, the medical examiner’s office has provided documentation from the district attorney’s office objecting to release of the information because such release would interfere with the investigation and prosecution of the matter at issue. 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 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 <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,

Claire V. Morris Sloan  
Assistant Attorney General  
Open Records Division

CVMS/mo

Ref: ID# 838692

Enc. Submitted documents

c: Requestor  
(w/o enclosures)