



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 11, 2012

Mr. Kent A. Brown  
Assistant County Attorney  
Nueces County Attorney's Office  
901 Leopard Street, Room 207  
Corpus Christi, Texas 78401-3680

OR2012-07025

Dear Mr. Brown:

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# 457319.

The Nueces County Medical Examiner's Office (the "medical examiner's office") received a request for information related to the death of a named individual. You claim the requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(a)(2) 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 . . . it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication." Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). Section 552.108 applies to information held by a "law enforcement agency."

By its terms, section 552.108 applies only to a law enforcement agency or a prosecutor. This office has concluded, however, that section 552.108 may be invoked by any proper custodian of information that relates to the incident. *See* Open Records Decision Nos. 474 (1987), 372

(1983). Where a non-law enforcement agency is in the custody of information relating to a concluded criminal case of a law enforcement agency, the custodian of the records may withhold the information if it provides this office with a demonstration that the information relates to the criminal case that has reached a conclusion other than a conviction or deferred adjudication and a representation from the law enforcement entity that it wishes to have the information withheld.

You state, and have provided an affidavit from the Nueces County District Attorney's Office (the "district attorney's office") also stating, that the district attorney's office requests the submitted information be withheld because it pertains to a concluded criminal investigation that did not result in a conviction or a deferred adjudication. Based on these representations, we conclude the medical examiner's office may withhold the submitted information under section 552.108(a)(2) of the Government Code on behalf of the district attorney's office. As our ruling is dispositive, we do not address your remaining arguments.

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.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/dls

Ref: ID# 457319

Enc. Submitted documents

c: Requestor  
(w/o enclosures)