ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 9, 2013

Ms. Ashley Fourt
Assistant District Attorney
Tarrant County
401 West Belknap, Ninth Floor
Fort Worth, Texas 76196-0201

OR2013-17537

Dear Ms. Fourt:

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# 506619.

The Tarrant County Medical Examiner's Office (the "medical examiner's office") received two requests for a specified autopsy report and the information presented for critical case review. You state the medical examiner's office has released the autopsy report. You claim the remaining information is excepted from disclosure under sections 552.101, 552.108, and 552.115 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.108 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 must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *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 that the information relates to the pending case and a representation from the law enforcement agency that it wishes to have the information withheld.

You inform us, and have provided an affidavit stating, that the Tarrant County Criminal District Attorney's Office objects to disclosure of the remaining information because its release would interfere with an ongoing criminal prosecution. Based on your representation and the submitted affidavit, we conclude that the medical examiner's office may withhold the information at issue under section 552.108(a)(1) of the Government Code. *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,

Tamara H. Holland
Assistant Attorney General
Open Records Division

THH/dls

Ref: ID# 506619

Enc. Submitted documents

c: Requestor
(w/o enclosures)