



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 9, 2017

Ms. Kristen Lee
Assistant County Attorney
County of Harris
1019 Congress, 15th Floor
Houston, Texas 77002

OR2017-05009

Dear Ms. Lee:

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# 648406 (C.A. File No. 16PIA0728).

The Harris County Institute of Forensic Sciences (the "institute") received a request for the autopsy reports of two named individuals. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim.

Initially, we note autopsy report number ML14-0886 was the subject of previous requests for information, in response to which this office issued Open Records Letter Nos. 2014-09952 (2014) and 2014-15180 (2014). In Open Records Letter Nos. 2014-09952 and 2014-15180, we determined the institute may withhold the information at issue under section 552.108 of the Government Code on behalf of the Houston Police Department. We have no indication the law, facts, or circumstances on which the prior rulings were based have changed. Accordingly, to the extent the requested information is identical to the information previously submitted and ruled on by this office, we conclude the institute may continue to rely on Open Records Letter Nos. 2014-09952 and 2014-15180 as previous determinations and withhold the information in accordance with those rulings. *See* Open Records Decision No. 673 at 6-7 (2001) (discussing criteria for first type of previous determination). To the extent the requested information is not subject to these previous rulings, we will address the institute's arguments.

Next, we must address the institute's procedural obligations under section 552.301 of the Government Code when requesting a decision from this office under the Act. Pursuant to section 552.301(e), a governmental body must submit to this office within fifteen business days of receiving an open records request (1) written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, (3) a signed statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. *See* Gov't Code § 552.301(e). The institute received the request for information on December 12, 2016. However, as of the date of this letter, the institute has not submitted for our review written comments stating the reasons why the stated exceptions apply, a copy of the written request for information, or a copy or representative sample of the information requested. Consequently, we find the institute failed to comply with section 552.301 of the Government Code.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless there is a compelling reason to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ). Although the institute raises exceptions to disclosure, because you have not submitted the remaining requested information for our review, we have no basis for finding any of the remaining information excepted from disclosure. Thus, we have no choice but to order the institute to release autopsy report number ML16-1030 pursuant to section 552.302.

In summary, to the extent the requested information is identical to the information previously submitted and ruled on by this office, we conclude the institute may continue to rely on Open Records Letter Nos. 2014-09952 and 2014-15180 as previous determinations and withhold the information in accordance with those rulings. The institute must release the remaining requested 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 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,

A handwritten signature in black ink, appearing to be 'KM' followed by a stylized flourish.

Kelly McWethy
Assistant Attorney General
Open Records Division

KSM/sb

Ref: ID# 648406

c: Requestor