



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 1, 2017

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

OR2017-17202

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# 668914 (C.A. File No. 19PIA0269).

The Harris County Institute of Forensic Sciences (the "institute") received a request for the autopsy report of a named individual.¹ The institute claims the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception the institute claims.

Initially, we note some or all of the requested information was the subject of previous requests for information, in response to which this office issued Open Records Letter Nos. 2016-04508 (2016) and 2016-27376 (2006). In those rulings, we determined the institute may withhold the submitted information under section 552.108(a)(1) of the Government Code on behalf of the Harris County Sheriff's Office. Accordingly, to the extent the information submitted in Open Records Letter Nos. 2016-04508 and 2016-27376 is identical to the information at issue and the law, facts, or circumstances on which the prior rulings were based have not changed, the institute may continue to rely on Open Records Letter Nos. 2016-04508 and 2016-27376 as previous determinations and withhold the identical information in accordance with those rulings. *See* Open Records Decision No. 673

¹As the institute did not submit a copy of the written request for information, we take our description of the request from the institute's brief.

at 6-7 (2001) (discussing criteria for first type of previous determination). To the extent the requested information is not identical or the laws, facts, or circumstances have changed, we will address the institute's argument against release of the requested information.

Next, we must address the institute's obligations under section 552.301 of the Government Code, which prescribes the procedures a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. *See* Gov't Code § 552.301. 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 id.* § 552.301(e). The institute states it received the request for information on May 9, 2017. However, as of the date of this ruling, the institute has not provided written comments stating why the claimed exception applies, a copy of the written request for information, or a copy or representative sample of the requested information. Consequently, we find the institute has failed to comply with section 552.301(e) of the Government Code.

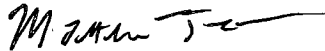
Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless there is a compelling reason to withhold the information 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 an exception to disclosure, because the institute has not submitted the requested information for our review, we have no basis for finding any of the information excepted from disclosure. Thus, we have no choice but to order the requested information released pursuant to section 552.302 of the Government Code.

In summary, to the extent the information submitted in Open Records Letter Nos. 2016-04508 and 2016-27376 is identical to the information at issue and the law, facts, or circumstances on which the prior rulings were based have not changed, the institute may continue to rely on Open Records Letter Nos. 2016-04508 and 2016-27376 as previous determinations and withhold the identical information in accordance with those rulings. To the extent the requested information is not identical or the laws, facts, or circumstances have changed, the institute must release it pursuant to section 552.302 of the Government Code.

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 read "Matthew Taylor", with a long horizontal flourish extending to the right.

Matthew Taylor
Assistant Attorney General
Open Records Division

MHT/bw

Ref: ID# 668914

c: Requestor