



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

February 8, 2018

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

OR2018-02908

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# 694645 (C.A. File No. 17PIA0715).

The Harris County Institute of Forensic Sciences (the "county") received a request for a named individual's autopsy report.<sup>1</sup> 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 the requested information may have been the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2017-18660 (2017). In that ruling, we determined the county may withhold the information at issue under section 552.108(a)(1) of the Government Code. We have no indication the law, facts, or circumstances on which the prior ruling was based have changed. Thus, to the extent the requested information is identical to the information previously requested and ruled upon, the county may continue to rely on Open Records Letter No. 2017-18660 as a previous determination and withhold the identical information at issue in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists

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<sup>1</sup>As you have not submitted a copy of the request for information, we take our description from your brief.

where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes information is or is not excepted from disclosure). However, to the extent the requested information is not subject to the previous ruling, we will consider the exception you raise.

Next, we must address the county's obligations under the Act. Section 552.301 of the Government Code describes the procedural obligations placed on a governmental body that receives a written request for information it wishes to withhold. *See* Gov't Code § 552.301. Pursuant to section 552.301(e) of the Government Code, a governmental body is required to submit to this office within fifteen business days of receiving the 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). You state the county received the request for information on November 10, 2017. However, as of the date of this letter, you have not submitted for our review a copy of the written request for information, comments explaining why the stated exception applies, or a copy or representative sample of the information requested. Consequently, we find the county failed to comply with the requirements of section 552.301(e).

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. Information that is presumed public must be released unless a governmental body demonstrates a compelling reason to withhold the information to overcome this presumption. *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 you raise an exception to disclosure, because you have not submitted any information for review, we have no basis for finding any information excepted from disclosure. Thus, we have no choice but to order any remaining requested information released pursuant to section 552.302 of the Government Code.

In summary, to the extent the requested information is identical to the information previously requested and ruled upon, the county may continue to rely on Open Records Letter No. 2017-18660 as a previous determination and withhold the identical information at issue in accordance with that ruling. To the extent the remaining requested information was not previously ruled on, the county 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](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 'Tim Neal', written in a cursive style.

Tim Neal  
Assistant Attorney General  
Open Records Division

TN/tdw

Ref: ID# 694645

c: Requestor