



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 14, 2019

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

OR2019-04306

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# 750494 (C.A. File No. 18PIA0918).

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

Initially, we note some or all of the requested information was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2018-08209 (2018). In that ruling, we determined the institute may withhold the submitted information pursuant to section 552.108(a)(1) of the Government Code. Accordingly, to the extent the law, facts, or circumstances on which the prior ruling was based has not changed, the institute may continue to rely on Open Records Letter No. 2018-08209 as a previous determination and withhold the identical information in accordance with that ruling. *See* Open Records Decision No. 673 at 6-7 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information

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

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). To the extent the requested information is not identical or the law, facts, or circumstances on which the prior ruling was based has changed, we address your argument against disclosure.

Next, we must address the institute's obligations under the Act. Section 552.301 of the Government Code prescribes the procedures that 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 is required to submit to this office within fifteen business days of receiving an open records request (1) written comments stating the reasons why the claimed 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. *Id.* § 552.301(e). The institute states it received the request for information on November 15, 2018. As of this date, you have not submitted to this office written comments stating the reasons why your claimed exception applies, a copy of the written request for information, or a copy or representative sample of the information requested. Accordingly, we conclude the institute failed to comply with the requirements of section 552.301.

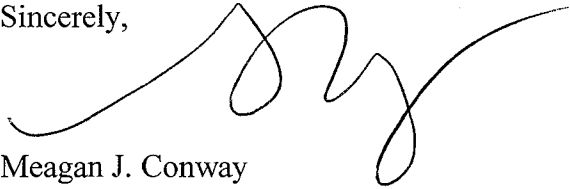
Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless there is a compelling reason to withhold the information 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 you have 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.

In summary, to the extent the law, facts, or circumstances on which the prior ruling was based has not changed, the institute may continue to rely on Open Records Letter No. 2018-08209 as a previous determination and withhold the identical information in accordance with that ruling. To the extent the requested information is not identical or the law, facts, or circumstances has changed, the institute must release the requested information 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,



Meagan J. Conway
Assistant Attorney General
Open Records Division

MC/mo

Ref: ID# 750494

Enc.

c: Requestor