



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 17, 2019

Ms. Deanne Lin
Assistant County Attorney
Harris County
1019 Congress, 15th Floor
Houston, Texas 77002

OR2019-19503

Dear Ms. Lin:

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# 775689 (ORR 19PIA0306).

The Harris County Institute of Forensic Sciences (the "institute") received a request for the autopsy and toxicology reports pertaining to a named individual. Although you take no position as to the public availability of the submitted information, you state its release may implicate the interests of Waller County (the "county").¹ Accordingly, you state, and provide documentation demonstrating, you notified the county of the request and of its right to submit arguments to this office as to why its information should not be released. *See* Gov't Code § 552.304 (interested third party may submit comments stating why information should or should not be released). We have received comments from the county. We have considered the submitted arguments and reviewed the submitted information.

Section 552.108(a)(2) 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 . . . it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]" *Id.* § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). Section 552.108

¹We note the institute did not comply with section 552.301 of the Government Code in requesting a ruling from this office. *See* Gov't Code § 552.301(b), (e). Nonetheless, as the interests of third parties can provide compelling reasons to overcome the presumption of openness, we will consider their arguments against disclosure of the submitted information. *See id.* §§ 552.007, .302, .352.

may be invoked by the proper custodian of information relating to an investigation or prosecution of criminal conduct. See Open Records Decision Nos. 474 at 4-5 (1987), 372 (1983). Where a governmental body has custody of information relating to a case of a law enforcement agency, the custodian of the records may withhold the information if it provides this office with a demonstration the information relates to the law enforcement agency's case and a representation from the law enforcement agency that it wishes to have the information withheld. The county objects to the release of the submitted information because it relates to a concluded criminal investigation conducted by the county's district attorney's office that did not result in conviction or deferred adjudication. Based on these representations, we agree section 552.108(a)(2) is applicable to the submitted information. Thus, the institute may withhold the submitted information under section 552.108(a)(2) of the Government Code on behalf of the county.²

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,



Britni Ramirez
Assistant Attorney General
Open Records Division

BR/gw

Ref: ID# 775689

Enc. Submitted documents

c: Requestor
(w/o enclosures)

c: Third Party
(w/o enclosures)

²As our ruling is dispositive, we need not address the county's remaining argument against disclosure.