



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 26, 2020

Ms. Tiffany Bangs
Assistant County Attorney
Harris County
1019 Congress, Fifteenth Floor
Houston, Texas 77002

OR2020-21567

Dear Ms. Bangs:

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# 842422 (C.A. File No. 20PIA0371).

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

Section 552.108(a) 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: (1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]" Gov't Code § 552.108(a)(1). A governmental body claiming section 552.108(a)(1) must explain how and why release of the requested information would interfere with the detection, investigation, or prosecution of crime. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). Section 552.108 may be invoked by the proper custodian of information relating to a pending investigation or prosecution of criminal conduct. *See* Open Records Decision No.

¹ Regardless of whether the institute complied with section 552.301 of the Government Code, we note the interests under section 552.108 of a governmental body other than the one that failed to comply with section 552.301 can provide a compelling reason sufficient to overcome the presumption of non-disclosure. *See* Open Records Decision No. 586 (1991). Accordingly, we will consider the applicability of section 552.108 to the submitted information based on the interests of the Houston Police Department (the "department").

474 at 4-5 (1987). Where a non-law enforcement agency has custody of information that would otherwise qualify for exception under section 552.108 as information relating to the pending 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 pending case and a representation from the law enforcement agency that it wishes to have the information withheld.

You state the department has advised the submitted information relates to a pending criminal investigation, and release of that information would interfere with the prosecution of the case. Based on these representations, we conclude the institute may withhold the submitted information under section 552.108(a)(1) of the Government Code on behalf of the department. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.— Houston [14th Dist] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Meagan Hunter
Assistant Attorney General
Open Records Division

MH/gw

Ref: ID# 842422

Enc. Submitted documents

c: Requestor
(w/o enclosures)