



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 6, 2010

Ms. Michelle M. Fraga
Assistant County Attorney
County of Harris
1019 Congress, 15th Floor
Houston, Texas 77002

OR2010-15228

Dear Ms. Fraga:

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# 400561 (C.A. File No. 10GEN1841).

The Harris County Institute of Forensic Sciences (the "institute") received a request for a toxicology report relating to a named individual. You claim that the requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the information you submitted.

Section 552.108 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 . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]" Gov't Code § 552.108(a)(1). A governmental body must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *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. 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 that the information relates to the pending case

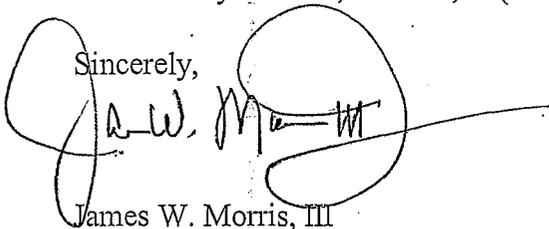
and a representation from the law enforcement agency that it wishes to have the information withheld.

You inform us, and have provided an affidavit stating, that the Harris County Sheriff's Office objects to disclosure of the submitted information because its release would interfere with a pending criminal case. Based on your representations and the submitted affidavit, we conclude that the institute may withhold the submitted information under section 552.108(a)(1) of the Government Code. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). As we are able to make this determination, we need not address the other exception you claim.

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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "J.W. Morris, III", is written over a large, circular, light-colored stamp or watermark.

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/em

Ref: ID# 400561

Enc: Submitted documents

c: Requestor
(w/o enclosures)