ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 17, 2012

Ms. Susan Fillion
Assistant County Attorney
Harris County
1019 Congress, 15th Floor
Houston, Texas 77002

OR2012-14722

Dear Ms. Fillion:

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# 469423 (C.A. File No. 12PIA0409).

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

Section 552.108(a)(1) 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 release of the information at issue would interfere with the detection, investigation, or prosecution of crime. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). Section 552.108 applies to information held by a "law enforcement agency." However, 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). Thus, 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 provide an affidavit from the Houston Police Department (the "department") stating, the department objects to disclosure of the submitted information because its release would interfere with an ongoing criminal investigation being conducted by the department and the Harris County Sheriff's Office (the "sheriff's office"). Based on your representation and the submitted affidavit, we conclude the institute may withhold the submitted information under section 552.108(a)(1) of the Government Code on behalf of the department and the sheriff's office. *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 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,

Misty Haberer Barham
Assistant Attorney General
Open Records Division

MHB/som

Ref: ID# 469423

Enc. Submitted documents

c: Requestor
(w/o enclosures)