ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 17, 2013

Ms. Cheryl Elliott Thornton
Assistant County Attorney
County of Harris
1019 Congress, 15th Floor
Houston, Texas 77002

OR2013-21949

Dear Ms. Thornton:

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# 508984 (C.A. File No. 13PIA0473).

The Harris County Institute of Forensic Sciences (the "institute") received a request for a specified autopsy report. You claim the requested 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 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

[1]Although you also raised section 552.101 of the Government Code, you have not submitted arguments explaining how this exception applies to the submitted information. Therefore, we assume you have withdrawn it. *See* Gov't Code §§ 552.301, .302. Furthermore, we note this office has concluded section 552.101 does not encompass other exceptions found in the Act. *See* Open Records Decision Nos. 676 at 1 (2002), 575 at 2 (1990).

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, the Houston Police Department objects to disclosure of the submitted information because its release would interfere with an ongoing criminal investigation. 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. *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.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,

Cynthia G. Tynan

Cynthia G. Tynan
Assistant Attorney General
Open Records Division

CGT/akg

Ref: ID# 508984

Enc. Submitted documents

c: Requestor
(w/o enclosures)