



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 15, 2008

Chief Don Hatcher
Leander Police Department
705 Leander Drive
Leander, Texas 78641

OR2008-09595

Dear Chief Hatcher:

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# 320322.

The Leander Police Department (the "department") received a request for the results of analysis of certain blood specimens. You claim that the requested information should not be released to the requestor. We have considered your arguments and have reviewed the information you submitted.

Section 724.018 of the Transportation Code provides that "[o]n the request of a person who has given a specimen at the request of a peace officer, full information concerning the analysis of the specimen shall be made available to the person or the person's attorney." Transp. Code § 724.018. Where a statute provides an individual with a special right of access to information, that information may not be withheld from that individual. *See* Open Records Decision Nos. 613 (1993), 623 (1994). You contend that because the requestor is neither the person whose blood specimen was analyzed nor that person's attorney, the requested information should not be released. Thus, you contend that release of the requested information would be a violation of section 724.018.

In Open Records Decision No. 478 (1987), this office interpreted the predecessor statute, section 3(e) of article 67011-5 of Vernon's Texas Civil Statutes, as creating a special right of access for the person supplying the specimen; we concluded that the statute did not constitute a grant of confidentiality with regard to other persons. *Id.* at 2-3; *see also* Open

Records Decision Nos. 658 (1998) (statutory confidentiality provision must be express), 465 (1987) (confidentiality requirement not to be implied from statutory structure). Therefore, the department may not withhold the requested information on the basis of section 724.018 of the Transportation Code. As you do not argue that the requested information is otherwise excepted from disclosure, the information must be released.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3). If the governmental body does not file suit over this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

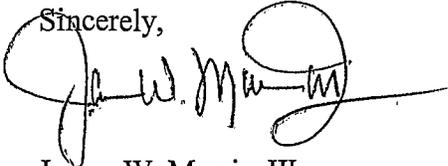
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can challenge that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "James W. Morris, III". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

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

JWM/ma

Ref: ID# 320322

Enc: Submitted documents

c: Ms. Amy Wilson
Fort Dearborn Life Insurance Company
P.O. Box 655403
Dallas, Texas 75265-5403
(w/o enclosures)