



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

November 18, 2008

Ms. Christ L. Evans  
Communications Supervisor/Records  
Gun Barrel City Police Department  
298 Municipal Drive  
Gun Barrel, Texas 75156

OR2008-15771

Dear Ms. Evans:

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# 332827.

The Gun Barrel Police Department (the "department") received a request for the blood test results pertaining to a specified arrest. You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim.

You inform us that the department does not have the requested blood test results as it has not received the alcohol analysis report from the Texas Department of Public Safety. The Act does not require a governmental body to disclose information that did not exist when the request for information was received. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex.App.—San Antonio 1978, writ dismissed); Open Records Decision No. 452 at 3 (1986). Thus, as the department does not have any information responsive to the request, we do not address your claim under section 552.108 of the Government Code. We note, however, that section 724.018 of the Transportation Code provides that, on the request of a person who has given a breath or blood specimen at the request of a peace officer, full information concerning the analysis of the specimen must be made available to the person or the person's attorney. Please also note that section 552.222 of the Government Code prohibits an inquiry by a governmental body into the motives of a person who requests information. *See A & T Consultants, Inc. v. Sharp*, 904

S.W.2d 668, 676 (Tex. 1995) (comptroller may not inquire whether requestor intends to use information it requested to deduce otherwise privileged information because the act precludes factual inquiry into what requestor intends to do with disclosed information); Open Records Decision No. 542 (1990).

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).

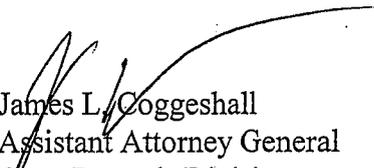
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can challenge that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

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,



James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/ma

Ref: ID# 332827

cc: Requestor  
(w/o enclosures)