



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 26, 2009

Ms. Pamela Smith
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR2009-00969

Dear Ms. Smith:

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# 333023 (Department Request No. 08-2007).

The Texas Department of Public Safety (the "department") received a request for all information regarding the blood analysis of the requestor's client. You state you have released some of the requested information to the requestor. You claim the remaining requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note that the submitted documents contain information pertaining to the analysis of a blood specimen obtained by a peace officer. 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 (emphasis added). In this instance, the requestor represents the individual who submitted the specimen at the request of a peace officer. You state that you have released a copy of the test report and a certificate analysis. However, we find that "full information" under section 724.018 refers to more than just the results of the analysis of the specimen. Rather, full information concerning the analysis of the specimen includes the "Alcohol Analysis Worksheet," the "Toxicology/Blood Alcohol Kit Laboratory Submission Form," the "Specimen Routing Report," and the submitted charts and graphs. You seek to withhold the information at issue under section 552.108. The exceptions to disclosure found in the Act do not apply to information that other statutes make public. *See* Open Records Decision No. 451 (1986) (specific statutory right of access provisions overcome general exceptions to disclosure under

statutory predecessor to Act). Therefore, the department must release the information we have marked to this requestor pursuant to section 724.018 of the Transportation Code.

You seek to withhold the remaining information under section 552.108(a)(1) of the Government Code. 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 that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that you have been informed by the El Paso Police Department that the remaining information relates to a pending criminal case. Based on your representation, we conclude that section 552.108(a)(1) is applicable in this instance. *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). Therefore, the department may withhold the remaining information under section 552.108(a)(1).

In summary, the department must release the information we have marked to this requestor pursuant to section 724.018 of the Transportation Code. The department may withhold the remaining information under section 552.108(a)(1) of the Government Code.

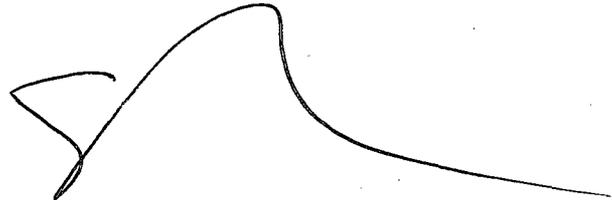
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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 at (512) 475-2497.

Sincerely,



Chris Schulz
Assistant Attorney General
Open Records Division



CS/cc

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Enc. Submitted documents

cc: Requestor
(w/o enclosures)