



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 1, 2011

Mr. John Ferguson
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR2011-11037

Dear Mr. Ferguson:

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# 425729 (ORA # 11-1185).

The Texas Department of Public Safety (the "department") received a request for the blood draw analysis results and notes pertaining to a specified incident. You state the department has released a copy of the Alcohol Analysis Laboratory Report to the requestor. You claim the submitted 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 most of the submitted information is not responsive to the request because it is not the blood draw analysis results or notes. This decision does not address the public availability of the non-responsive information, which we marked, and that information need not be released in response to the present request.

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 must be made available to the person or the person's attorney." Transp. Code § 724.018 (emphasis added). We note that "full information" under section 724.018 refers to more than just the results of the analysis specimen. In this instance, the requestor is the attorney representing the person who gave the blood specimen at the request of a peace officer. Although you seek to withhold the analysis worksheets under section 552.108 of the Government Code, the specific right of access provision codified in section 724.018 prevails over the Act's general exceptions to disclosure. *See* Open Records Decision No. 451 at 4 (1986) (specific statutory right of access provisions overcome general

exceptions to disclosure under statutory predecessor to Act). Therefore, the department must release the analysis worksheets we marked pursuant to section 724.018 of the Transportation Code.

You raise section 552.108(a)(1) of the Government Code for the remaining information, which are notes pertaining to the specified incident. Section 552.108(a)(1) 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 claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the notes pertain to an ongoing criminal case. Based on your representations and our review, we conclude release of the notes would interfere with the detection, investigation, or prosecution of crime. *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). Thus, the department may withhold the notes, which we marked, under section 552.108(a)(1) of the Government Code.

In summary, the department must release the marked blood draw analysis records pursuant to section 724.018 of the Transportation Code. The department may withhold the marked notes 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, toll free at (888) 672-6787.

Sincerely,



Kenneth Leland Conyer
Assistant Attorney General
Open Records Division

KLC/eb

Ref: ID# 425729

Enc. Submitted documents

c: Requestor
(w/o enclosures)