



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 29, 2012

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

OR2012-04608

Dear Ms. Goins:

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# 449216 (TxDPS PIR# 12-0174).

The Texas Department of Public Safety (the "department") received a request for twenty-eight categories of information concerning the policies and procedures of a specified laboratory that conducts blood tests and a specified lab case number. You indicate you have released some of the requested information 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 you have only submitted information pertaining to the twenty-fourth category of the request. To the extent information responsive to the remainder of the request existed on the date the authority received the request, we assume you have released it. *See* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible). If you have not released any such information, you must do so at this time. *See* Gov't Code §§ 552.301(a), .302.

Next, we note portions of the submitted information, which we have marked, are not responsive to the instant request because they apply to lab case numbers other than the case number specified in the request. This ruling does not address the public availability of non-responsive information, and the department is not required to release non-responsive information in response to this request.

We note 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). We find that “full information” under section 724.018 refers to the results of the analysis of the specimen, and includes the “Alcohol Analysis Worksheet,” the “Toxicology/Blood Alcohol Kit Laboratory Submission Form,” and the submitted charts and graphs. In this instance, the requestor is the authorized representative of the person who gave the blood specimen at the request of a peace officer. Although you seek to withhold the information at issue under section 552.108 of the Government Code, a specific statutory right of access provision prevails over general exceptions to disclosure under the Act. *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 submitted results of the analysis of the blood specimen at issue, which we have marked, to this requestor pursuant to section 724.018 of the Transportation Code.

Section 552.108(a) 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: (1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov’t Code 552.108(a)(1). Generally, 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 that the requested information relates to a pending criminal prosecution, and you provide documentation showing the Ellis County District Attorney’s Office objects to its release. Based upon this representation, we conclude section 552.108(a)(1) is applicable and the release of remaining information 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). Accordingly, the department may withhold the remaining submitted information under section 552.108(a)(1) of the Government Code.

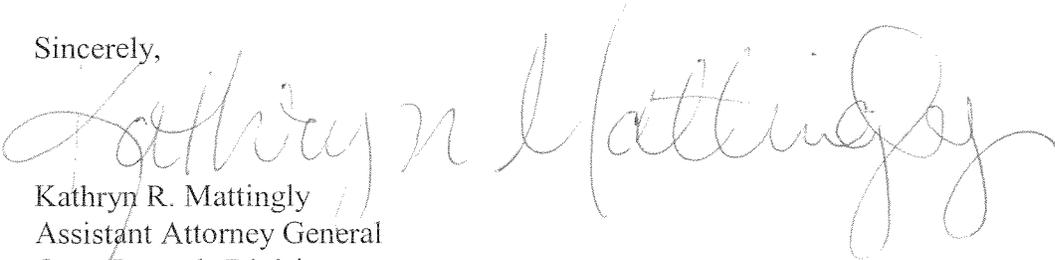
In summary, the department must release the submitted results of the analysis of the blood specimen at issue, which we have marked, pursuant to section 724.018 of the Transportation Code. The department may withhold the remaining submitted responsive information under section 552.108(a)(1) of the Government 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](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,

A handwritten signature in cursive script, reading "Kathryn R. Mattingly". The signature is written in black ink and is positioned to the right of the typed name.

Kathryn R. Mattingly  
Assistant Attorney General  
Open Records Division

KRM/dls

Ref: ID# 449216

Enc. Submitted documents

c: Requestor  
(w/o enclosures)