



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 13, 2012

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

OR2012-05318

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# 450573 (PIR # 12-0276).

The Texas Department of Public Safety (the "department") received a request for thirty categories of information related to a specified toxicology report and a named individual. You state the department has released some 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 portions of the requested information. To the extent any additional information responsive to the request existed on the date the department received the request, we assume you have released it. If you have not released such information, you must do so at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* 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).

Next, we note that the information you seek to withhold includes the results of an analysis of a blood specimen of the named individual. Section 724.018 of the Transportation Code provides that, on the request of the 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 that person or the person's attorney. Transp. Code § 724.018. We find that "full

information” under section 724.018 refers to the results of the analysis of the specimen and includes the submitted charts and graphs pertaining to the named individual. As a general rule, the exceptions to disclosure found in the Act do not apply to information that other statutes make public. *See* Open Records Decision Nos. 623 at 3 (1994), 525 at 3 (1989). Here, the requestor may be an authorized representative of the person who provided the blood specimen. However, as we are unable to make this determination based on our review of the information, we must rule conditionally. If the department determines the requestor is the authorized representative of the person who provided the specimen, then the requestor has a right of access to full information concerning the analysis of the specimen under section 724.018 of the Transportation Code. However, if the department determines the requestor is not the authorized representative of the person who provided the specimen, then the requestor does not have a right of access to the information at issue under section 724.018 of the Transportation Code, and we will address your claim under section 552.108 of the Government Code for this information.

Section 552.108(a)(1) 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 must reasonably explain how and why section 552.108 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 the submitted information is related to an ongoing criminal investigation. Based on your representation, we agree release of the submitted 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). Thus, if the department determines the requestor does not have a right of access to the full information concerning the analysis of the named individual’s specimen under section 724.018 of the Transportation Code, the department may withhold it under section 552.108(a)(1) of the Government Code. Regardless, 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](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, appearing to read "Sean Nottingham".

Sean Nottingham  
Assistant Attorney General  
Open Records Division

SN/akg

Ref: ID# 450573

Enc. Submitted documents

c: Requestor  
(w/o enclosures)