



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 24, 2016

Ms. Captoria Brown
Paralegal
Office of the City Attorney
City of Carrollton
1945 East Jackson
Carrollton, Texas 75006

OR2016-19114

Dear Ms. Brown:

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# 623976 (City ID: 7755).

The City of Carrollton (the "city") received a request for information concerning a named individual and a specified incident. You state the city has released some of the information. You claim portions of the submitted information are excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information. We have also considered comments from the Dallas County District Attorney's Office (the "district attorney's office"). *See Gov't Code* § 552.304 (interested party may submit comments to this office stating why the information at issue should or should not be released).

The information you seek to withhold includes video recordings subject to article 2.139 of the Code of Criminal Procedure, which provides:

A person stopped or arrested on suspicion of an offense under Section 49.04, 49.045, 49.07, or 49.08, Penal Code, is entitled to receive from a law enforcement agency employing the peace officer who made the stop or arrest a copy of any video made by or at the direction of the officer that contains footage of:

(1) the stop;

- (2) the arrest;
- (3) the conduct of the person stopped during any interaction with the officer, including during the administration of a field sobriety test; or
- (4) a procedure in which a specimen of the person's breath or blood is taken.

Crim. Proc. Code art. 2.139. Those video recordings were made by or at the direction of an officer employed by the city and contain footage of the requestor's client being stopped or arrested on suspicion of an offense under section 49.04 of the Penal Code and having his blood drawn subsequent to his arrest. Penal Code § 49.04 (person commits offense if person is intoxicated while operating motor vehicle in public place). The requestor, as an authorized representative of the arrested person, is entitled to receive a copy of the video recordings we have indicated pursuant to article 2.139 of the Code of Criminal Procedure. You assert section 552.108 of the Government Code to withhold this information, and the district attorney's office asserts sections 552.103 and 552.108 of the Government Code; but a statutory right of access prevails over the Act's general exceptions to public disclosure. *See, e.g.,* Open Records Decision Nos. 613 at 4 (1993) (exceptions in Act cannot impinge on statutory right of access to information), 451 (1986) (specific statutory right of access provisions overcome general exception to disclosure under the Act). Sections 552.103 and 552.108 are general exceptions under the Act, so the requestor's statutory access under article 2.139 prevails and the city may not withhold the video recordings we indicated under either section 552.103 or section 552.108 of the Government Code.

The information you seek to withhold also includes information concerning the blood test results of the requestor's client. Section 724.018 of the Transportation Code provides, 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. *See* Transp. Code § 724.018. The requestor is the attorney of the person who provided the blood specimen at the request of a peace officer. You raise section 552.108 of the Government Code for this information, and the district attorney's office raises sections 552.103 and 552.108 of the Government Code; but, as previously discussed, a specific right of access prevails over the Act's general exceptions to disclosure. *See* ORD 451 at 4. Accordingly, the city may not withhold the blood test results we marked under section 552.103 or section 552.108 of the Government Code.

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 claiming section 552.108(a)(1) must 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, and provided documentation showing, the remaining information you marked relates to a pending criminal

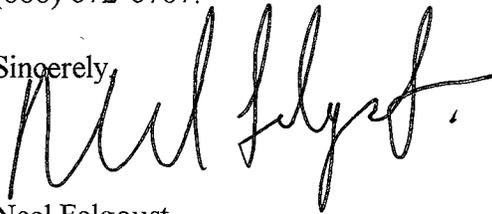
prosecution by the district attorney's office, and release of the information would interfere with that prosecution. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Based on these representations and our review, we conclude the city may withhold the remaining information it marked under section 552.108(a)(1) of the Government Code.¹

In summary, with the exception of the video recordings we indicated and the blood test results we marked, the city may withhold the information you marked under section 552.108(a)(1) of the Government Code. The city must release the remaining information.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Neal Falgoust
Assistant Attorney General
Open Records Division

NF/bhf

Ref: ID# 623976

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹As our ruling is dispositive, we do not address any remaining arguments against disclosure for this information.