



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 15, 2007

Ms. M. Ann Montgomery  
Assistant Ellis County and District Attorney  
Temporary Administrative Building  
1201 North Highway 77, Suite 104  
Waxahachie, Texas 75165-7832

OR2007-07570

Dear Ms. Montgomery:

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# 282026.

The Waxahachie Police Department (the "department") received a request for a copy of a laboratory report of the analysis of a blood sample. You claim that the submitted information is excepted from disclosure under sections 552.103 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

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 laboratory reports relate to a pending criminal investigation and prosecution. Based upon this representation, we conclude that the release of the laboratory reports 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), *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). Accordingly, we find that the department may withhold the laboratory reports under section 552.108(a)(1).<sup>1</sup>

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<sup>1</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure.

The requestor claims that he is making this request pursuant to chapter 724 of the Transportation Code. Chapter 724 contains provisions that detail the taking and analysis of a specimen. Section 724.018 states that full information concerning the analysis of a specimen provided must be made available, upon request, to the person who has given the specimen at the request of a peace officer or to the person's attorney. Transp. Code § 724.018. Here, the requestor is not the individual who submitted the specimen, nor is he the authorized representative of this individual. Thus, the requestor does not have a right of access to the submitted laboratory reports pursuant to section 724.018 of the Transportation Code.

The requestor also claims that he is making this request pursuant to chapter 56 of the Code of Criminal Procedure. This chapter details the rights of crime victims. The rights that are set forth in chapter 56 include the right of the victim's safety to be taken into account during the bail hearing, right to receive information regarding crime victim's compensation, right to request victim-offender mediation, right to be present at all public court proceedings, and the right to a written notice from the attorney representing the state. *See* Crim. Proc. Code arts. 56.02, .08. Chapter 56 does not, however, provide the victim with the right to obtain laboratory reports. Therefore, the requestor does not have a right of access to the laboratory reports under chapter 56 of the Code of Criminal Procedure.

In summary, the department may withhold the laboratory reports pursuant to section 552.108(a)(1) of the Government Code.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll

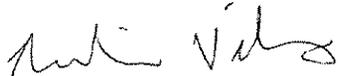
free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Melanie J. Villars  
Assistant Attorney General  
Open Records Division

MJV/jb

Ref: ID# 282026

Enc. Submitted documents

c: Mr. Art Brender  
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(w/o enclosures)