



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 5, 2012

Mr. Tyler F. Wallach
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street
Fort Worth, Texas 76102

OR2012-04935

Dear Mr. Wallach:

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# 449742 (Fort Worth PIR No. W014154).

The Fort Worth Police Department (the "department") received a request for a request for twenty-eight categories of information related to toxicology report number FW10-08017-1 and a named individual. You state the basic information has been provided to the requestor.¹ You claim that the submitted information is excepted from disclosure under sections 552.101, 552.108, 552.122, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note portions of the submitted information, which we have indicated, are not responsive to the requested twenty-eight categories of information. In addition, we note portions of the submitted information apply to toxicology reports and individuals other than the specified report and named individual. Thus, this information is also not responsive to

¹See Gov't Code § 552.108(c) (basic information about an arrested person, and arrest, or a crime is not excepted under section 552.108); *see also* Open Records Decision No. 127 (1976) (summarizing types of information considered basic information).

the request. The department need not release non-responsive information in response to this request, and this ruling will not address that information.²

Next, 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).

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 552.103 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.

We address your claim under section 552.108 of the Government Code for the remaining responsive information. Section 552.108 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, and provide an affidavit from the Tarrant County District Attorney’s Office confirming, the remaining responsive information relates to a pending criminal prosecution and release of the information at this time would interfere with that prosecution. Based on these representations, we agree release of the information at issue would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ’g Co. v. City of Houston*, 53 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates

²As our ruling is dispositive for this information, we do not address your arguments against its disclosure.

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 responsive information under section 552.108(a)(1) of the Government Code.³

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 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, 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,



Sarah Casterline
Assistant Attorney General
Open Records Division

SEC/som

Ref: ID# 449742

Enc. Submitted documents

c: Requestor
(w/o enclosures)

³As our ruling is dispositive for this information, we do not address your remaining arguments against its disclosure.