



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 2, 2014

Mr. R. Brooks Moore
Managing Counsel, Governance
Office of General Counsel
The Texas A&M University System
301 Tarrow Street, 6th Floor
College Station, Texas 77840-7896

OR2014-09399

Dear Mr. Moore:

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# 529555 (TAMU 14-309).

Texas A&M University (the "university") received two requests from the same requestor for information pertaining to the requestor's arrest. You claim some of the requested 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 that the information you seek to withhold includes the results of an analysis of a breath specimen. 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. 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). In this instance, the requestor is the person who provided the breath specimen at the request of a peace officer. Therefore, the submitted results of the analysis of the breath specimen, which we have marked for release, must be released to this requestor pursuant to section 724.018 of the Transportation 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 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 the remaining information you have marked relates to a pending criminal investigation being conducted by the university’s police department and a pending criminal prosecution being conducted by the Brazos County Attorney’s Office. Based upon these representations and our review, we find 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*, 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 university may withhold the remaining information you have marked under section 552.108(a)(1) of the Government Code.

In summary, the university must release the results of the analysis of the breath specimen, which we have marked pursuant to section 724.018 of the Transportation Code. The university may withhold the remaining information you have marked under section 552.108(a)(1) of the Government Code. The remaining information must be released.

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,



Jennifer Luttrall
Assistant Attorney General
Open Records Division

JL/akg

Ref: ID# 529555

Enc. Submitted documents

c: Requestor
(w/o enclosures)