



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

December 5, 2017

Ms. Lindsey Batula  
Assistant General Counsel  
University of North Texas System  
1155 Union Circle #310907  
Denton, Texas 76203-5017

OR2017-27538

Dear Ms. Batula:

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# 687898 (ORR No. 002091).

The University of North Texas Health Science UNTHSC (the "UNTHSC") received a request for information pertaining to a specified DNA report. The UNTHSC claims the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the claimed exception and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses section 411.153 of the Government Code, which provides, relevant part,

- (a) A DNA record stored in the DNA database is confidential and is not subject to disclosure under [the Act].
- (b) A person commits an offense if the person knowingly discloses to an unauthorized recipient information in a DNA record or information related to a DNA analysis of a sample collected under this subchapter.

*Id.* § 411.153(a)-(b). A “DNA record” means the results of a forensic DNA analysis performed by a DNA laboratory. *See id.* § 411.141(6)-(7). “Forensic analysis” means “a medical, chemical, toxicologic, ballistic, or other expert examination or test performed on physical evidence, including DNA evidence, for the purpose of determining the connection of the evidence to a criminal action.” Crim. Proc. Code art. 38.35(4); *see also* Gov’t Code § 411.141(10) (“forensic analysis” has meaning assigned by article 38.35). A “DNA database” means “one or more databases that contain forensic DNA records maintained by the director of [the Department of Public Safety (“DPS”).” Gov’t Code § 411.141(5); *see id.* § 411.001(3).

The director of DPS is required to establish certain procedures for DNA laboratories. *See id.* §§ 411.142(h) (requiring director establish standards for DNA analysis), .144(a). Section 411.144 of the Government Code requires a DNA laboratory conducting a forensic DNA analysis under subchapter G of chapter 411 to comply with subchapter G and the rules adopted under subchapter G. *See id.* § 411.144(d); 37 T.A.C. §§ 28.81, .82 (describing minimum standards by which forensic DNA laboratory must abide); *see also* Gov’t Code § 411.147(b).

The UNTHSC explains the submitted information consists of a forensic DNA report that identifies the source from which the DNA was extracted, indicates the number of alleles within the DNA mixture, contains the results of DNA tests, and contains a statistical report. The UNTHSC asserts this information is “a DNA record because it was generated for the purpose of, and result from, a forensic DNA analysis.” Upon review, we find the submitted information consists of records relating to DNA analyses of samples that appear to have been collected under subchapter G of chapter 411 of the Government Code. We note this information appears to be the result of forensic DNA analyses performed by a DNA laboratory in accordance with DPS regulations. Therefore, the UNTHSC must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 411.153 of the Government Code.<sup>1</sup> *See City of Fort Worth v. Abbott*, 258 S.W.3d 320, 328 (Tex. App.—Austin 2008, no pet.) (section 411.153 of the Government Code prohibits release of DNA records held by city forensic science laboratory regardless of whether that record has been forwarded to DPS state DNA database).

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.

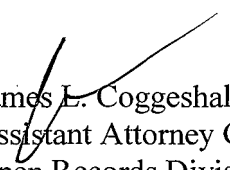
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at <http://www.texasattorneygeneral.gov/open/>

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<sup>1</sup>As our ruling is dispositive, we do not address the other arguments of the UNTHSC to withhold this information.

[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,



James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/tdw

Ref: ID# 687898

Enc. Submitted documents

c: Requestor  
(w/o enclosures)