



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 25, 2019

Mr. Mark Kratovil
Assistant Criminal District Attorney
Tarrant County
401 West Belknap, 9th Floor
Fort Worth, Texas 76196-0201

OR2019-17291

Dear Mr. Kratovil:

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# 774816.

The Tarrant County Criminal District Attorney's Office (the "district attorney's office") received a request for DNA reports pertaining to a specified case. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim 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. This section encompasses section 411.153(a) of the Government Code, which provides "[a] DNA record stored in the DNA database is confidential and is not subject to disclosure under the [Act]." Id. § 411.153(a). A "DNA record" means the results of a forensic DNA analysis performed by a DNA laboratory. See id. § 411.141(6)-(7). "Forensic analysis" is defined as "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 provides a DNA laboratory conducting a forensic

DNA analysis under subchapter G of chapter 411 must comply with subchapter G and the rules adopted under subchapter G. See *id.* § 411.144(d); 37 T.A.C. §§ 28.91, .92 (describing minimum standards by which forensic DNA laboratory must abide); see also Gov't Code § 411.147(b).

Upon review, we find the submitted information consists of records relating to DNA analyses of samples collected under subchapter G of chapter 411 of the Government Code. We note this information is the result of forensic DNA analyses performed by a DNA laboratory in accordance with DPS regulations. Therefore, the district attorney's office must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 411.153(a) of the Government Code. See *City of Fort Worth v. Abbott*, 258 S.W.3d 320, 328 (Tex. App.—Austin 2008, no pet.) (section 411.153 prohibits release of DNA records held by city forensic science laboratory regardless of whether records have 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/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,



Kieran Hillis
Assistant Attorney General
Open Records Division

KH/jxd

Ref: ID# 774816

Enc. Submitted documents

c: Requestor
(w/o enclosures)