



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 16, 2019

Mr. Peter G. Smith
City Attorney
City of Richardson
P. O. Box 831078
Richardson, Texas 75083-1078

OR2019-22790

Dear Mr. Smith:

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# 788460 (File No. P002255).

The Richardson Police Department (the "department") received a request for the arrest report and video recordings related to a specified incident involving the requestor's client. You state you have released some information to the requestor. We understand you will withhold dates of birth not belonging to the requestor's client pursuant to the previous determination issued in Open Records Letter No. 2017-00069 (2017).¹ You claim the submitted information is excepted from disclosure under sections 552.103, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note Exhibit C includes a Toxicology/Blood Alcohol Kit Laboratory Submission Form and a Specimen Routing Report. 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. Although you

¹Open Records Letter No. 2017-00069 is a previous determination issued to the department authorizing it to withhold the dates of birth of public citizens under section 552.101 of the Government Code in conjunction with common-law privacy without requesting a decision from this office.

claim this information is excepted from disclosure under sections 552.103 and 552.108 of the Government Code, a specific right of access provision prevails over the Act's general exceptions to disclosure. *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). In this instance, the requestor represents the person who provided the blood specimen at the request of a peace officer. Therefore, the submitted Toxicology/Blood Alcohol Kit Laboratory Submission Form and Specimen Routing Report must be released to this requestor pursuant to section 724.018 of the Transportation Code.

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(a)(1) must 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 in Exhibit C relates to an ongoing criminal investigation, and release of that information would interfere with the investigation and prosecution of the case. Based upon this representation, we conclude the release of the remaining information in Exhibit C 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). Thus, section 552.108(a)(1) is applicable to the remaining information in Exhibit C. Accordingly, the department may withhold the remaining information in Exhibit C under section 552.108(a)(1) of the Government Code.²

In summary, the department must release the submitted Toxicology/Blood Alcohol Kit Laboratory Submission Form and Specimen Routing Report to this requestor pursuant to section 724.018 of the Transportation Code and may withhold the remaining information in Exhibit C under section 552.108(a)(1) of the Government Code. The department must release the remaining information.

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable

²As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

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charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "Tim Neal". The signature is fluid and cursive, with the first name "Tim" being more prominent than the last name "Neal".

Tim Neal
Assistant Attorney General
Open Records Division

TN/jxd

Ref: ID# 788460

Enc. Submitted documents

c: Requestor
(w/o enclosures)