



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 21, 2009

Ms. YuShan Chang
Assistant City Attorney
City of Houston
P. O. Box 1562
Houston, Texas 77251-1562

OR2009-00014A

Dear Ms. Chang:

This office issued Open Records Letter No. 2009-00014 (2009) on January 5, 2009. In the summary of that decision, we failed to cite to the correct subsection of section 552.108 for the withholding of information. Where this office determines that an error was made in the decision process under sections 552.301 and 552.306, we will correct the previously issued ruling. Consequently, this decision serves as the correct ruling and is a substitute for the decision issued on January 5, 2009. *See generally* Gov't Code 552.011 (providing that Office of Attorney General may issue decision to maintain uniformity in application, operation, and interpretation of Public Information Act (the "Act")).

You ask whether certain information is subject to required public disclosure under the Act, chapter 552 of the Government Code. Your request was assigned ID# 337974.

The Houston Police Department (the "department") received a request for an offense report pertaining to a specified incident. You state you have released a portion of the requested information. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the information you have submitted.

Initially, we note the submitted information includes the breath test results of an arrestee's blood alcohol content. Full information concerning the analysis of the specimens must be made available upon the request of the person who has given specimens at the request of a peace officer. Transp. Code § 724.018. Here, the requestor is the attorney of the individual who submitted the specimen. Because the requestor is an authorized representative of the individual at issue, the department must release the breath test results to the requestor.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than conviction or

deferred adjudication. Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state the remaining information relates to a case that concluded in a result other than conviction or deferred adjudication. Based on your representation, we conclude section 552.108(a)(2) is applicable to the remaining information.

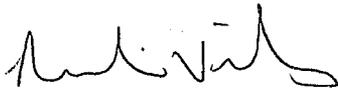
We note, and you acknowledge, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-87. Thus, with the exception of basic information, which includes a detailed description of the offense, the department may withhold the remaining information under section 552.108(a)(2) of the Government Code.

In summary, the department must release the submitted breath test results pursuant to section 724.018 of the Transportation Code. With the exception of basic information, the department may withhold the remaining information under section 552.108(a)(2) 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 at (512) 475-2497.

Sincerely,



Melanie J. Villars
Assistant Attorney General
Open Records Division

MJV/eeg

Ref: ID# 337974

Enc. Submitted documents

c: Requestor
(w/o enclosures)