



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 26, 2010

Ms. Jerris Penrod Mapes
Assistant City Attorney
Killeen Police Department
3304 Community Boulevard
Killeen, Texas 76542

OR2010-16207

Dear Ms. Mapes:

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# 402763 (W004303).

The Killeen Police Department (the "department") received a request for information related to case number 10-011260. You state you have released some information. You claim the remaining 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 representative sample of information.¹

We first note that the submitted information includes the results of an analysis of a blood specimen. Section 724.018 of the Transportation Code provides that "[o]n the request of a person who has given a specimen at the request of a peace officer, full information concerning the analysis of the specimen shall be made available to the person or the person's attorney." Transp. Code § 724.018. We note that the exceptions to disclosure found in the Act do not apply to information that other statutes make public. *See* Open Records Decision

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

Nos. 623 at 3 (1994), 525 at 3 (1989). In this instance, the requestor is employed by the attorney for the person who gave the specimen at the request of a peace officer. Accordingly, the results of the analysis of the specimen must be released to the requestor pursuant to section 724.018 of the Transportation Code.

Next, we address your claim under section 552.108 of the Government Code for the remaining information at issue. Section 552.108(a)(1) 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 must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977).

We note the remaining information includes a statutory warning and notice of suspension. Because copies of these documents, which we have marked, have been provided to the arrestee, we find that their release will not interfere with the detection, investigation, or prosecution of crime. *See* Gov’t Code § 552.108(a)(1). Therefore, the department may not withhold these documents under section 552.108(a)(1).

You state that the remaining information relates to an ongoing criminal prosecution. Based upon your representation and our review, we conclude that the release of the remaining information 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), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). Thus, section 552.108(a)(1) is generally applicable to the remaining information.

However, basic information about an arrested person, an arrest, or a crime is not excepted from disclosure under section 552.108. Gov’t Code § 552.108(c). Such basic information refers to the information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-8; *see also* Open Records Decision No. 127 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of basic information, which you state you have released, the statutory warning, and the notice of suspension, the department may withhold the remaining information under section 552.108(a)(1) of the Government Code.

In summary, the results of the analysis of the specimen must be released to the requestor pursuant to section 724.018 of the Transportation Code. With the exception of basic information, which you state you have released, the statutory warning, and the notice of suspension, the department may withhold the remaining information under section 552.108(a)(1) 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, toll free, at (888) 672-6787.

Sincerely,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 402763

Enc. Submitted documents

c: Requestor
(w/o enclosures)