



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 7, 2014

Mr. Robert G. Schleier, Jr.
Counsel for the Kilgore Police Department
Law Office of Robert G. Schleier, Jr., P.C.
116 North Kilgore Street
Kilgore Texas 75662

OR2014-03994

Dear Mr. Schleier:

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# 517162.

The Kilgore Police Department (the "department"), which you represent, received a request for information pertaining to a specified incident. 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 submitted information.

Initially, we note that the submitted information contains the results of an analysis of a breath 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 Nos. 623 at 3 (1994), 525 at 3 (1989). In this instance, the requestor is the person who gave the specimen at the request of a peace officer. Therefore, the submitted results of the analysis of the breath specimen must be released to this requestor under 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). A governmental body claiming section 552.108(a)(1) must reasonably explain how and why release of the requested information would interfere with the detection, investigation, or prosecution of crime. *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 information at issue pertains to a pending criminal investigation. We note the remaining information includes a statutory warning and a notice of suspension. Because copies of these documents, which we have marked, have been provided to the arrestee, we find 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 the marked statutory warning and notice of suspension under section 552.108(a)(1). Based upon your representation and our review, we conclude 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) (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.

We note, however, section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” Gov’t Code § 552.108(c). Basic front-page information refers to the information held to be public in *Houston Chronicle*, and includes, among other items, a detailed description of the offense. *See* 531 S.W.2d at 186-87; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). The department must release basic information, even if the information does not literally appear on the front page of an offense or arrest report. Accordingly, with the exception of the statutory warning, notice of suspension, and basic information, the department may withhold the remaining information under section 552.108(a)(1).

In summary, the department must release the results of the analysis of the breath specimen, which we have marked, to this requestor under section 724.018 of the Transportation Code. With the exception of the marked statutory warning and notice of suspension and the basic information, the department may withhold the remaining information under section 552.108(a)(1) of the Government Code. The department must release the remaining information.¹

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.

¹Because the requestor has a special right of access to some of the information being released, if the department receives another request for this information from an individual other than this requestor, the department must again seek a ruling from this office. *See* Gov’t Code §§ 552.023, .130

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,

A handwritten signature in black ink that reads "Lindsay E. Hale". The signature is written in a cursive, flowing style.

Lindsay E. Hale
Assistant Attorney General
Open Records Division

LEH/tch

Ref: ID# 517162

Enc. Submitted documents

c: Requestor
(w/o enclosures)