



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 15, 2006

Ms. Angela M. DeLuca
Assistant City Attorney
City of College Station
P.O. Box 9960
College Station, Texas 77842

OR2006-04979

Dear Ms. DeLuca:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code, the Public Information Act (the "Act"). Your request was assigned ID# 252982.

The College Station Police Department (the "department") received a request for information relating to a specified incident involving the requestor. You claim that 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.

First, we note that the information includes the breath test results of the requestor's blood alcohol content. Full information concerning the analysis of the specimen must be made available upon the request of the person who has given a specimen at the request of a peace officer, or the person's attorney. Transp. Code § 724.018. Thus, the department must release the breath test results to the requestor.

Next, we address section 552.108 of the Government Code with respect to the remaining submitted information. Section 552.108(a)(2) excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. 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. Based on the information you provided, we understand you to assert that the requested information pertains to a case that

concluded in a result other than conviction or deferred adjudication. Therefore, we agree that section 552.108(a)(2) is applicable. Thus, with the exception of the basic front page offense and arrest information, which you state has been released, you may withhold the requested information from disclosure based on section 552.108(a)(2).¹ We note that you have the discretion to release all or part of the remaining information that is not otherwise confidential by law. Gov't Code § 552.007.

In summary, the department must release the requestor's breath test results. The department may withhold the remaining submitted information under section 552.108(a)(2) of the Government Code.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental

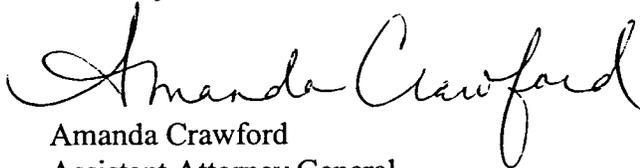
¹Basic information refers to the information held to be public in *Houston Chronicle Publ'g Co. v. City of Houston* 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), writ ref'd n.r.e. per curiam, 536 S.W.2d 559 (Tex. 1976); see also Gov't Code § 552.108(c).

body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink that reads "Amanda Crawford". The signature is written in a cursive, flowing style.

Amanda Crawford
Assistant Attorney General
Open Records Division

AEC/vh2

Ref: ID# 252982

Enc. Submitted documents

c: Mr. Lee Droemer
17 Lyncrest Drive
Galveston, Texas 77550
(w/o enclosures)