



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 25, 2009

Mr. John Ohnemiller
First Assistant City Attorney
City of Midland
P. O. Box 1152
Midland, Texas 79702-1152

OR2009-03859

Dear Mr. Ohnemiller:

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# 339310.

The Midland Police Department (the "department") received a request for information pertaining to a specified police report. You state that the front page information for the requested offense report has been released to the requestor.¹ You claim that the remaining 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 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 individual who submitted the specimen. Thus, the department must release the breath test results, which we have marked, to the requestor.

¹We assume that the "front page" information you intend to release is the basic information referred to under section 552.108(c) of the Government Code. Gov't Code § 552.108(c) (basic information about an arrested person, and arrest, or a crime is not excepted under section 552.108); *see also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information).

You assert that the remaining information is excepted from disclosure under section 552.108(a)(1) of the Government Code. Section 552.108(a) 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.” See Gov’t Code §§ 552.108(a)(1), .301(e)(1)(A); see also *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). Generally, a governmental body claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. See *id.* You state that the requested offense report relates to a pending criminal investigation. Based upon this representation, we conclude that the release of the offense report 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, with the exception of the basic information which you state you have already released, you may withhold the remaining requested information from disclosure based on section 552.108(a)(1).

In summary, the department must release the submitted breath test results, which we have marked, pursuant to section 724.018 of the Transportation Code. With the exception of the basic information you state you have released to the requestor, the department may withhold the remaining information under section 552.108 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,



Bob Davis
Assistant Attorney General
Open Records Division

RSD/eb

Ref: ID# 339310

Enc. Submitted documents

cc: Requestor
(w/o enclosures)