



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 7, 2010

Mr. Charles H. Weir
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283

OR2010-04881

Dear Mr. Weir:

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# 380160 (COSA File No. 2010-5330).

The City of San Antonio (the "city") received a request for a specified incident report. 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.

Initially, we note that the submitted information includes the results of an analysis of a breath specimen. Section 724.018 of the Transportation Code provides that upon the request of the person who has given a specimen at the request of a peace officer, full information concerning the analysis of the specimen must be made available to that person or the person's attorney. As a general rule, 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 pursuant to section 724.018 of the Transportation Code.

Next, we note the submitted information contains a CR-3 accident report form. Section 552.101 of the Government Code excepts from disclosure "information considered

to be confidential by law, either constitutional, statutory, or by judicial decision” and encompasses information made confidential by statute.¹ Gov’t Code § 552.101. Section 550.065(b) of the Transportation Code states that except as provided by subsection (c), accident reports are privileged and confidential. See Transp. Code § 550.065. Section 550.065(c)(4) provides for the release of accident reports to a person who provides two of the following three pieces of information: (1) date of the accident; (2) name of any person involved in the accident; and (3) specific location of the accident. *Id.* § 550.065(c)(4). The requestor has not provided the city with two of the three requisite pieces of information specified by the statute. Accordingly, the city must withhold the submitted CR-3 accident report form under section 550.065(b) of the Transportation Code in conjunction with section 552.101 of the Government Code.

You seek to withhold the remaining information under section 552.108 of the Government Code. 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 claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. See *id.* §§ 552.108(a)(1), .301(e)(1)(A); see also *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that release of the submitted information will interfere with a pending criminal investigation. Based on this representation, we conclude that section 552.108(a)(1) is generally applicable in this instance. 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 curium*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). We note, however, that the information at issue includes a DIC-24 statutory warning and a DIC-25 notice of suspension. The city provided copies of these forms to the arrestee. You have not explained how releasing this information, which has already been seen by the arrestee, would interfere with the detection, investigation, or prosecution of crime. See Gov’t Code § 552.108(a)(1). Accordingly, the DIC-24 and DIC-25 forms may not be withheld under section 552.108.

Additionally, section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” *Id.* § 552.108(c). Section 552.108(c) refers to the basic “front-page” information held to be public in *Houston Chronicle*. See 531 S.W.2d at 186-187; see also Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Accordingly, with the exception of the DIC-24 and DIC-25 forms and basic information, the city may withhold the remaining submitted information under section 552.108(a)(1) of the Government Code.

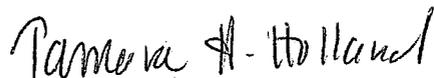
¹The Office of the Attorney General will raise a mandatory exception like section 552.101 of the Government Code on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

In summary, the results of the analysis of the breath specimen must be released to this requestor pursuant to section 724.018 of the Transportation Code. The city must withhold the submitted CR-3 accident report form under section 550.065(b) of the Transportation Code in conjunction with section 552.101 of the Government Code. With the exception of the DIC-24 and DIC-25 forms and basic information, the city may withhold the remaining submitted 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,



Tamara H. Holland
Assistant Attorney General
Open Records Division

THH/jb

Ref: ID# 380160

Enc. Submitted documents

c: Requestor
(w/o enclosures)