



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 29, 2010

Mr. R. John Cullar
Cullar & McLeod
Attorneys for City of Lorena
801 Washington Avenue, Suite 217
Waco, Texas 76701

OR2010-09593

Dear Mr. Cullar:

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# 385211.

The Lorena Police Department (the "department"), which you represent, received a request for arrest report number 10-030069, the officer's statement, and the results from the requestor's blood specimen. 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 the submitted information includes the test results of the arrestee's blood alcohol content. "On 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. In this instance, the requestor is the individual who submitted the specimen. Thus, the department must release the blood test results we have marked to the requestor.

Section 552.108(a)(1) 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 . . . 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). You state the submitted information relates to a pending prosecution by the McLennan County Criminal District Attorney and that the release of the information at issue may hinder the prosecution. Based upon your representations and our review, we find 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). Therefore section 552.108(a)(1) is applicable to the remaining information.

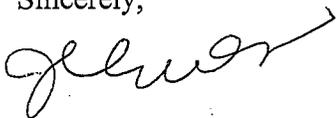
We note, and you acknowledge, basic information about an arrested person, an arrest, or a crime is not excepted from disclosure under section 552.108. Gov't Code § 552.108(c). Section 552.108(c) refers to the basic front-page information held to be public in *Houston Chronicle* and includes "a detailed description of the offense." See 531 S.W.2d at 186-7. We note the information you state you will release as basic does not contain a detailed description of the offense. Therefore, the department must release a sufficient portion of the narrative section of report number 10-030069 to encompass a detailed description of the offense. Accordingly, with the exception of basic information, which includes a detailed description of the offense, the department may withhold report number 09A018428 pursuant to section 552.108(a)(1).

In summary, the department must release the blood test results to the requestor pursuant to section 724.018 of the Transportation Code. With the exception of basic information, which includes a detailed description of the offense, 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, toll free, at (888) 672-6787.

Sincerely,



Jessica Eales
Assistant Attorney General
Open Records Division

JCE/eeg

Ref: ID# 385211

Enc. Submitted documents

c: Requestor
(w/o enclosures)