



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 8, 2010

Ms. Kathy Allen
Records Supervisor
Burleson Police Department
225 West Renfro
Burleson, Texas 76028

OR2010-18416

Dear Ms. Allen:

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# 402283.

The Burleson Police Department (the "department") received a request for information pertaining to case number 10-002780. You claim that the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have reviewed the submitted information and considered the exception you claim.

First, we note that the submitted information includes intoxilyzer results. 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. Transp. Code § 724.018. 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, thus, the analysis of that specimen must be released to this requestor pursuant to section 724.018 of the Transportation Code.

Next, as to the remaining information, we address your claim under section 552.108(a)(1) of the Government Code. That section provides, in pertinent part:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from [required public disclosure] 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.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the submitted information relates to a case that is still pending. Based on your representation and our review, we conclude that release of this information would interfere with the detection, investigation, or prosecution of a crime. *See Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). Accordingly, we agree that section 552.108(a)(1) of the Government Code is applicable to the submitted information.

However, as you acknowledge, 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). 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 basic information, which you state you have released, the department may withhold the remaining information under section 552.108(a)(1) of the Government Code.

In summary, the department must release the intoxilyzer results pursuant to section 552.101 of the Government Code in conjunction with section 724.018 of the Transportation Code. With the exception of basic information, the department may withhold the remaining information pursuant to 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,

A handwritten signature in cursive script that reads "Misty Haberer Barham".

Misty Haberer Barham
Assistant Attorney General
Open Records Division

MHB/sdk

Ref: ID# 402283

Enc. Submitted documents

c: Requestor
(w/o enclosures)