



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 16, 2011

Ms. Cecilia Gamez
Crime Records Bureau
McAllen Police Department
P.O. Box 220
McAllen, Texas 78501

OR2011-02390

Dear Ms. Gamez:

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# 413459.

The McAllen Police Department (the "department") received a request for information related to case number 11-2608. You state you have released basic information to the requestor.¹ You claim that the remaining requested 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 contains the blood test results of the requestor's blood alcohol content. Section 724.018 of the Transportation Code provides that on 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. In this instance, the requestor is the person who submitted the blood test specimens at the request of a peace officer. Thus, the department must release the blood test results contained in the submitted information to this requestor pursuant to section 724.018 of the Transportation Code.

You claim the remaining submitted information is excepted from public disclosure under section 552.108 of the Government Code. Section 552.108(a)(2) excepts from disclosure information concerning an investigation that concluded in a result other than conviction or

¹We assume that the basic information you have released 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, an 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).

deferred adjudication. Gov't Code § 552.108(a)(2). 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. *See id.* § 552.301(e) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You explain that the remaining information relates to a closed investigation that did not result in a conviction or deferred adjudication. Based on your representation and our review, we conclude that section 552.108(a)(2) is applicable to the remaining information. Thus, with the exception of basic information, which you state has already been released, the department may withhold the remaining information under section 552.108(a)(2) of the Government Code.

In summary, pursuant to section 724.018 of the Transportation Code, the department must release the submitted results of the analysis of the requestor's blood specimen to the requestor. With the exception of basic information, which you state has already been released, 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 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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 413459

Enc. Submitted documents

c: Requestor
(w/o enclosures)