ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 31, 2011

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

OR2011-04454

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# 417578.

The McAllen Police Department (the "department") received a request for a specified offense report. You state you have released basic information to the requestor.[1] You claim 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 information you have submitted includes the breath test results of an arrestee's blood alcohol content. Full information concerning the analysis of the specimen must be made available upon the request of the person who has given the specimen at the request of a peace officer. Transp. Code § 724.018. Here, the requestor is the individual who submitted the specimen. As a general rule, the exceptions to disclosure found in the Act do not apply to information other statutes make public. *See* Open Records Decision Nos. 623

[1]We assume 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).

at 3 (1994), 525 at 3 (1989). Thus, the department must release the breath test results to the requestor.

Section 552.108 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 information at issue relates to a pending criminal prosecution. Based on your representation, we conclude section 552.108(a)(1) is generally applicable to information at issue. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, with the exception of basic information, which you state has been released, the department may withhold the remaining information under section 552.108(a)(1).

In summary, the department must release the breath test results pursuant to section 724.018 of the Transportation Code. With the exception of basic information, which you state has been released, the department 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,

Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/eeg

Ref: ID# 417578

Enc. Submitted documents

c: Requestor
(w/o enclosures)