



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 4, 2012

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

OR2012-08509

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# 459386 (COSA File No. W007285).

The City of San Antonio (the "city") received a request for information pertaining to case number 12008516. 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.

We note the submitted information includes results of a blood alcohol analysis. Section 724.018 of the Transportation Code provides, 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 states she is requesting the information for her family member, who is the person who provided the specimen at the request of a peace officer. Thus, the requestor might be acting as the person's authorized representative. *See* Gov't Code § 552.023(a) (person's authorized representative has a special right of access to information about that person that is excepted from disclosure under laws intended to protect privacy interests). Although you raise section 552.108 of the Government Code for this information, the general exceptions to disclosure found in the Act do not apply to information other statutes make public. *See* Open Records Decision Nos. 623 at 3 (1994), 525 at 3 (1989). Therefore, if the requestor is acting as the person's authorized

representative, the city must release the blood alcohol analysis results to the requestor under section 724.018 of the Transportation Code. If the requestor does not have a right of access to the blood alcohol analysis results, we will consider your argument against disclosure of this information along with the remaining submitted information.

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 information at issue relates to an open criminal case. Thus, we find the release of the information at issue would interfere with the detection, investigation, and prosecution of a crime. *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). Accordingly, section 552.108(a)(1) is generally applicable to the information at issue. We note, however, 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).

We further note section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. 531 S.W.2d at 186–87; Open Records Decision No. 127 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Accordingly, with the exception of basic information and the DIC-24 and DIC-25 forms, the city may withhold the information at issue under section 552.108(a)(1) of the Government Code.

Section 552.130 of the Government Code excepts from disclosure information related to a motor vehicle operator’s or driver’s license or permit issued by an agency of this state or another state or country.¹ Gov’t Code § 552.130(a)(1). The DIC-24 and DIC-25 forms contain the arrestee’s driver’s license number. However, we note section 552.130 is designed to protect personal privacy. As previously mentioned, the requestor might have a right of access to this information. *See* Gov’t Code § 552.023. Therefore, to the extent the requestor does not have a right of access to the information pertaining to the arrestee, the city

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

must withhold the driver's license number in the DIC-24 and DIC-25 forms under section 552.130.

In summary, to the extent the requestor has a right of access to the blood alcohol analysis results, the city must provide the requestor with the results under section 724.018 of the Transportation Code. With the exception of basic information and the DIC-24 and DIC-25 forms, the city may withhold the information at issue under section 552.108(a)(1) of the Government Code. To the extent the requestor does not have a right of access to the arrestee's information, the city must withhold the arrestee's driver's license number in the DIC-24 and DIC-25 forms under section 552.130 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/ag

Ref: ID# 459386

Enc. Submitted documents

c: Requestor
(w/o enclosures)