



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 27, 2010

Ms. Neera Chatterjee  
The University of Texas System  
Office of the General Counsel  
201 West Seventh Street  
Austin, Texas 78701-2902

OR2010-11258

Dear Ms. Chatterjee:

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#388675 (Ref#W000614-051310).

The University of Texas at San Antonio (the "university") received a request for incident report #2010-029A-030A. You claim that portions of the submitted information are exempted from disclosure under sections 552.108 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note that the submitted information contains the breath test results of two individuals' blood alcohol contents. Full information concerning the analysis of the specimen must be made available upon the request of the person who has given a specimen at the request of a peace officer. Transp. Code § 724.018. It appears the requestor is a family member of one of the individuals whose breath specimen analysis is at issue. Thus, the requestor may be acting as this individual's authorized representative. *See* Gov't Code § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual or authorized representative asks governmental body to provide information concerning that individual). If the requestor is the authorized representative of this individual, the university must release the blood alcohol test results of this individual to this requestor. To the extent this requestor is not this individual's authorized representative, we will consider your arguments against the disclosure of this information, as well as the remaining submitted information.

Section 552.108 provides in relevant part:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime;

...

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from the requirements of Section 552.021 if:

(1) release of the internal record or notation would interfere with law enforcement or prosecution[.]

Gov't Code § 552.108(a)(1), (b)(1). A governmental body claiming section 552.108(a)(1) or section 552.108(b)(1) must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), (b)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). Section 552.108(a)(1) protects information, the release of which would interfere with a particular criminal investigation or prosecution. You provide an affidavit from the university's police department stating the submitted information is related to an ongoing criminal investigation. Based on your representation, we conclude that section 552.108(a)(1) is generally applicable to the submitted information. *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).

We note, however, that the submitted information includes a notice of suspension and two citations. Because copies of these documents are provided to an individual who is cited, we find that release of the submitted notice of suspension and citations will not interfere with the detection, investigation, or prosecution of crime. *See* Gov't Code § 552.108(a)(1). We therefore conclude that no portion of the submitted notice of suspension or citations may be withheld under section 552.108(a)(1).

We also note, and you acknowledge, that section 552.108 does not except from disclosure "basic information about an arrested person, an arrest, or a crime." *Id.* § 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 186-88; Open Records Decision No. 127 at 3-4 (1976)

(summarizing types of information deemed public by *Houston Chronicle*). With the exception of basic information, which you have already released, and the submitted notice of suspension and citations, the university may withhold the submitted information under section 552.108(a)(1) of the Government Code.

Lastly, we note that the submitted notice of suspension and citations contain Texas driver's license information. Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle operator's or driver's license or permit issued by an agency of this state. *See Gov't Code § 552.130(a)(1)*. We note that section 552.130 protects privacy interests. As noted above, the requestor may be the authorized representative of one of the individuals whose information is at issue. *See id.* § 552.023(b). Thus, to the extent the requestor is acting as this individual's authorized representative, he has a right of access to this individual's driver's license number and it may not be withheld from him under section 552.130. To the extent the requestor is not the authorized representative of this individual, the university must withhold this individual's driver's license number, as well as the remaining driver's license number, which we have marked, under section 552.130 of the Government Code.<sup>1</sup>

In summary; 1) to the extent the requestor is the authorized representative of one of the individuals whose breath specimen test results are at issue, the university must release the breath specimen test results of this individual to this requestor under section 724.018 of the Transportation Code; 2) with the exception of basic information and the submitted notice of suspension and citations, the university may withhold incident report #2010-029A-030A under section 552.108 of the Government Code; and 3) the university must withhold the Texas driver's license numbers we have marked in the submitted notice of suspension and citations under section 552.130 of the Government Code. To the extent the requestor is the authorized representative of his family member, he has a right of access to that driver's license number, .

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](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

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<sup>1</sup>As you acknowledge, this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas driver's license numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

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 black ink, appearing to read 'VB', with a long horizontal flourish extending to the right.

Vanessa Burgess  
Assistant Attorney General  
Open Records Division

VB/jb

Ref: ID#388675

Enc. Submitted documents

c: Requestor  
(w/o enclosures)