



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 4, 2012

Mr. John Ferguson
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR2012-06573

Dear Mr. Ferguson:

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# 455149 (#12-0817).

The Texas Department of Public Safety (the "department") received a request for the offense report and breath test results related to a specified arrest. You claim the 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 breath test results of an individual'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. Although you assert this information is excepted from disclosure under section 552.108 of the Government Code, the exceptions to disclosure 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). The requestor appears to represent the individual whose blood alcohol content is at issue. Thus, if the requestor is an authorized representative of the individual whose information is at issue, then the department must release the submitted blood test results to the requestor pursuant to section 724.018 of the Transportation Code. If the requestor is not the named individual's authorized

representative, we will consider your arguments against the disclosure of this information, as well as the remaining submitted documents.

Section 552.108(a) 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: (1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Generally, a governmental body claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See* Gov’t Code §§ 552.108(a)(1), (b)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the requested information relates to a pending criminal investigation. Based on this representation, we conclude the release of the submitted information would interfere with the detection, investigation, or prosecution of 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).

However, 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). Basic information refers to the information held to be public in *Houston Chronicle*. *Houston Chronicle*, 531 S.W.2d at 186-87. Thus, with the exception of the basic front-page offense and arrest information, the department may withhold the submitted information under section 552.108(a)(1), subject to the requestor’s possible right of access to a portion of it under section 724.018 of the Transportation Code.

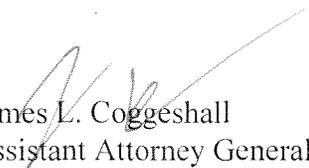
To conclude, the department must release the submitted blood test results pursuant to section 724.018 of the Transportation Code if the requestor is an authorized representative of the individual whose information is at issue. The department must release the basic information in the submitted documents.¹ The department may withhold the remaining 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.

¹We note the basic information includes the arrestee’s social security number. Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person’s social security number from public release without the necessity of requesting a decision from this office under the Act. However, the requestor would have a right of access to this information under section 552.023 of the Government Code if she represents the individual whose information is at issue. *See* Gov’t Code § 552.023(a) (“[a] person or a person’s authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person’s privacy interests”); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves).

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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/ag

Ref: ID# 455149

Enc. Submitted documents

c: Requestor
(w/o enclosures)