



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 22, 2013

Mr. Daniel Plake
Assistant County Attorney
County of Montgomery
207 West Phillips, First Floor
Conroe, Texas 77301

OR2013-14692

Dear Mr. Plake:

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# 502178 (ORR# 2013-4287).

The Montgomery County Sheriff's Department (the "sheriff's department") received a request for information pertaining to a specified arrest. You state the sheriff's department will redact driver's license numbers under section 552.130(c) of the Government Code and social security numbers under section 552.147(b) of the Government Code.¹ You state the sheriff's department has released some of the requested information. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code.² We have considered the exception you claim and reviewed the submitted information.

¹Section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsections 552.130(a)(1) and (a)(3) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e). Further, 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. *See id.* § 552.147(b).

²Although you also raise section 552.101 of the Government Code, you have not provided any argument to support this exception. Therefore, we do not address section 552.101. *See* Gov't Code §§ 552.301(e)(1)(A), .302.

Initially, we note the submitted documents contain blood test results of an individual's blood alcohol content. Section 724.018 of the Transportation Code provides, "[o]n the request of a person who has given a specimen at the request of a peace officer, full information concerning the analysis of the specimen shall be made available to the person or the person's attorney." Transp. Code § 724.018. In this instance, the requestor is the individual who submitted the specimen at the request of a peace officer. You seek to withhold the information at issue under section 552.108 of the Government Code. A provision providing a specific right of access prevails over the exceptions to disclosure found in the Act. *See* Open Records Decision No. 451 (1986) (specific statutory right of access provisions overcome general exceptions to disclosure under statutory predecessor to Act). Thus, the sheriff's department may not withhold the information at issue under section 552.108 of the Government Code. Therefore, the sheriff's department must release the submitted blood test results to this requestor pursuant to section 724.018 of the Transportation Code.

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 claiming section 552.108(a)(1) must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the submitted information relates to a pending criminal cause of action. Based on your representation, we conclude the release of the information at issue 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). Thus, section 552.108(a)(1) is applicable to the remaining information.

We note 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*. *See* 531 S.W.2d at 186-88; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of the basic information, the sheriff's department may withhold the remaining information under section 552.108(a)(1) of the Government Code.

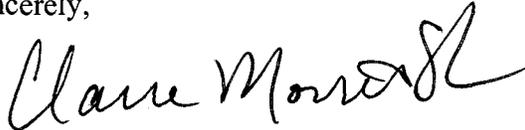
In summary, the sheriff's department must release the submitted blood test results to this requestor pursuant to section 724.018 of the Transportation Code. With the exception of the

basic information, which must be released, the sheriff's department may withhold the remaining information under section 552.108(a)(1) of the Government Code.³

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/som

Ref: ID# 502178

Enc. Submitted documents

c: Requestor
(w/o enclosures)

³We note some of the information being released in this instance is confidential with respect to the general public. Therefore, if the sheriff's department receives another request for this information from a different requestor, the sheriff's department must again seek a ruling from this office.