



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 19, 2009

Mr. David K. Walker
County Attorney
Montgomery County
207 West Phillips, Suite 100
Conroe, Texas 77301

OR2009-11601

Dear Mr. Walker:

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# 352812.

The Montgomery County Sheriff's Office (the "sheriff") received a request for a specified arrest record. You claim that some of 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.

Initially, we note that the information you have marked 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 specimens at the request of a peace officer. Transp. Code § 724.018. Here, the requestor is the individual who submitted the specimen. Thus, the sheriff must release the breath test results to the requestor.

Section 552.108(a) 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 that the submitted information relates to a

pending criminal investigation. Based upon this representation, we conclude that the release of the information you have highlighted in yellow 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), 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).

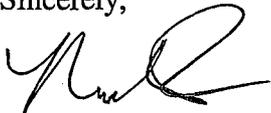
However, as you acknowledge, section 552.108 does not except basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). Such basic information refers to the information held to be public in *Houston Chronicle*. See 531 S.W.2d at 186-87. We note that basic information includes a detailed description of the offense. See Open Records Decision No. 127 (1976) (summarizing types of information made public by *Houston Chronicle*). The information on the front page of the report that you have submitted does not include a detailed description of the offense. Thus, in order to release a detailed description of the offense, the department must release some of the narrative portion of the report. Thus, with the exception of basic information, the department may withhold the remaining information under section 552.108(a)(1).

In summary, the sheriff must release the breath test results pursuant to section 724.018 of the Transportation Code. The sheriff may, with the exception of a detailed narrative of the offense, withhold the information it has marked pursuant to section 552.108(a)(1) of the Government Code. The remaining information must be released.

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 at (512) 475-2497.

Sincerely,



Nneka Kanu
Assistant Attorney General
Open Records Division

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Enc. Submitted documents

cc: Requestor
(w/o enclosures)