



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

May 11, 2015

Mr. M. Matthew Ribitzki  
Deputy City Attorney  
City of Burleson  
225 West Renfro Street  
Burleson, Texas 76028

OR2015-09156

Dear Mr. Ribitzki:

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# 568720 (BPD ORR# 210).

The Burleson Police Department (the "department") received a request for information regarding a specified arrest. You claim the requested information is excepted from disclosure under section 552.108 of the Government Code.<sup>1</sup> We have considered the exception you claim and reviewed the submitted information.

Initially, we note the submitted information includes the breath test results of an individual's blood alcohol content. Section 724.018 of the Transportation Code provides that "[o]n request of the 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. Here, the requestor is the individual who submitted the specimen. Although you claim the information is excepted from disclosure under section 552.108 of the Government Code, a specific right of access provision prevails over the Act's general exceptions to disclosure. *See* Open Records Decision No. 451

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<sup>1</sup>Although the department also asserts the submitted information is excepted from disclosure under section 552.101 of the Government Code in conjunction with section 552.108 of the Government Code, this office has concluded section 552.101 does not encompass other exceptions found in the Act. *See* Open Records Decision No. 676 at 1-2 (2002).

at 4 (1986) (specific statutory right of access provisions overcome general exceptions to disclosure under statutory predecessor to Act). Therefore, the department must release the intoxilyzer results in the submitted information 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 case. We note the information at issue includes DIC-24 statutory warning and DIC-25 notice of suspension forms. The department 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)*. Accordingly, the DIC-24 and DIC-25 forms may not be withheld under section 552.108. However, we find the department has demonstrated release of the remaining 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). Section 552.108(c) refers to the basic information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-187; *see also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Accordingly, with the exception of basic information and the DIC-24 and DIC-25 forms, which must be released, the department may withhold the submitted information under section 552.108(a)(1) of the Government Code.

In summary, the department must release the intoxilyzer results pursuant to section 724.018 of the Transportation Code. With the exception of basic information and the DIC-24 and DIC-25 forms, which must be released, the department may withhold the submitted information under section 552.108(a)(1) of the Government Code.<sup>2</sup>

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<sup>2</sup>We note the information being released includes the requestor’s driver’s license information to which he has a right of access pursuant to section 552.023 of the Government Code. *See Gov’t Code § 552.023(a)*; Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself).

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](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,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/dls

Ref: ID# 568720

Enc. Submitted documents

c: Requestor  
(w/o enclosures)