



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

July 8, 2015

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

OR2015-13826

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# 570428.

The Burleson Police Department (the "department") received a request for information pertaining to a specified incident. You state you will provide some information to the requestor. You claim the submitted 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 information you seek to withhold includes the results of an analysis of a blood specimen. Section 724.018 of the Transportation Code provides that, on the 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. As a general rule, the exceptions to disclosure found 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). In this instance, the requestor states she has a power of attorney for the suspect who provided the blood specimen at the request of a peace officer. Accordingly, the requestor may be an authorized representative of the person who provided the blood specimen. If the department determines the requestor is the

---

<sup>1</sup>Although you also raise section 552.101 for the submitted information, you provide no arguments explaining how this exception is applicable to the information at issue. Therefore, we assume you no longer assert this exception. *See* Gov't Code §§ 552.301, .302.

authorized representative of the person who provided the specimen, then the requestor has a right of access to full information concerning the analysis of the specimen under section 724.018 of the Transportation Code and the department must release such information to the requestor. However, if the department determines the requestor is not the authorized representative of the person who provided the specimen, then the requestor does not have a right of access to the information at issue under section 724.018 of the Transportation Code, and we will address your claim under section 552.108 of the Government Code for this information.

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. We note the submitted information includes a DIC-24 statutory warning, which we have marked. Because the department provided a copy of this form to the arrestee, we find its release will not interfere with the detection, investigation, or prosecution of crime. Therefore, the department may not withhold the marked DIC-24 statutory warning under section 552.108(a)(1). The department states the remaining information relates to a pending criminal prosecution. Based on this representation, we conclude the 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, 186-87 (Tex. Civ. App.—Houston [14th Dist.] 1975) (delineating law enforcement interests 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*. *See* 531 S.W.2d at 186–87; Open Records Decision No. 127 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Therefore, with the exception of the DIC-24 form and basic information, the department may withhold the submitted information, including the blood test results if the requestor does not have a right of access under section 724.018 of the Transportation Code, under section 552.108(a)(1) of the Government Code.

We note the DIC-24 form contains motor vehicle record information of the suspect at issue, which we have marked. Section 552.130 of the Government Code provides information relating to a motor vehicle operator’s license, driver’s license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release.<sup>2</sup> *See* Gov’t Code § 552.130. We note section 552.130 protects personal privacy. As noted above, the requestor in this instance

---

<sup>2</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. *See* Open Records Decision No. 481 (1987), 480 (1987), 470 (1987).

may be acting as the suspect's authorized representative, in which case the requestor would have a right of access to the suspect's driver's license information. *See id.* § 552.023 (governmental body may not deny access to person to whom information relates, or that party's representative, solely on grounds that information is considered confidential by privacy principles); 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). Thus, if the requestor is acting as the authorized representative of the person whose motor vehicle record information is at issue, the department must release this information to the requestor. If the requestor is not acting as the suspect's authorized representative, the department must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code.

In summary, if the department determines the requestor is the authorized representative of the person who provided the blood specimen, the department must release the submitted results of the analysis of the blood specimen to this requestor pursuant to section 724.018 of the Transportation Code. With the exception of the DIC-24 form and basic information, the department may withhold the remaining information under section 552.108(a)(1) of the Government Code. If the requestor is not acting as the suspect's authorized representative, the department may also withhold the blood test results under 552.108(a)(1), and must withhold the motor vehicle record information we have marked within the DIC-24 form under section 552.130 of the Government Code. The department must release the remaining information.

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,



Lee Seidlits  
Assistant Attorney General  
Open Records Division

CLS/som

Ref: ID# 570428

Enc. Submitted documents

c: Requestor  
(w/o enclosures)