



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

May 23, 2019

Ms. Michelle Buendia  
Assistant City Attorney  
City of Dallas  
1400 South Lamar Street, 6th Floor, 6W  
Dallas, Texas 75215

OR2019-13694

Dear Ms. Buendia:

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# 766894 (ORR# D007101-030819).

The Dallas Police Department (the "department") received a request for a specified incident report. You state you will release some information to the requestor. You claim the submitted information is subject to a previous ruling. You further claim the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered your arguments and reviewed the submitted information.

You claim the submitted information was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2018-27223 (2018). In that ruling, we concluded the department may withhold the information at issue under section 552.108(a)(1) of the Government Code. However, we note the present requestor has a right of access to information the previous requestor did not. Thus, we find the law, facts, and circumstances have changed since the issuance of the previous ruling, and the department may not rely on Open Records Letter No. 2018-27223 as a previous determination. However, we will address your arguments against disclosure with respect to the submitted information.

Next, 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 represents 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 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 breath test results of the requestor's client, which we have marked, 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 must explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the submitted information relates to a pending criminal investigation. Based on your representation and our review, 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 present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, the department may withhold the remaining information you have marked under section 552.108(a)(1) of the Government Code.<sup>1</sup>

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. *See* Gov't Code § 552.130. Accordingly, the department must withhold the motor vehicle record information you have marked in the remaining information under section 552.130 of the Government Code.

In summary, the department: (1) must release the breath test results of the requestor's client, which we have marked, pursuant to section 724.018 of the Transportation Code; (2) may withhold the remaining information you have marked under section 552.108(a)(1) of the Government Code; (3) must withhold the motor vehicle record information you have marked

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<sup>1</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

in the remaining information under section 552.130 of the Government Code; and (4) must release the remaining information to this requestor.<sup>2</sup>

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,



Tim Neal  
Assistant Attorney General  
Open Records Division

TN/eb

Ref: ID# 766894

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>2</sup>We note the requestor has a right of access to some of the information being released. *See* Transp. Code § 724.018; Gov't Code § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Thus, the department must again seek a decision from this office if it receives another request for the same information from another requestor.