



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 12, 2019

Ms. Jennifer Burnett
Senior Attorney
The University of Texas System
210 West 7th Street
Austin, Texas 78701

OR2019-15703

Dear Ms. Burnett:

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# 770116 (OGC# 189645).

The University of Texas Medical Branch at Galveston (the "university") received a request for information pertaining to a specified incident.¹ You state the university released some information to this requestor, including certain video recordings pursuant to article 2.1396 of the Code of Criminal Procedure and basic information pursuant to section 552.108(c) of the Government Code. *See* Crim. Proc. Code art. 2.1396 (person stopped or arrested on suspicion of DWI is entitled to receive copy of video that contains footage of stop, arrest, conduct of person stopped during interaction with officer, or procedure in which specimen of person's breath or blood is taken), Gov't Code 552.108(c) (basic information about an arrest, arrested person, or crime not excepted from disclosure under section 552.108). You claim 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.

¹We note the university received an initial request for the same information from this requestor on September 11, 2018. In response to the initial request, the university informs us it responded to the requestor within five business days and then withheld certain information under section 552.108(a)(1) of the Government Code, pursuant to the previous determination this office issued to the university in Open Records Letter No. 2016-11855 (2016). Subsequently, the requestor made a second request for the same information on March 25, 2019.

Initially, we note the submitted information includes a Toxicology/Blood Alcohol Kit Laboratory Submission Form and a Specimen Routing Report. 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. Although you claim this 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). In this instance, the requestor is the person who provided the blood specimen at the request of a peace officer. Therefore, the submitted Toxicology/Blood Alcohol Kit Laboratory Submission Form and Specimen Routing Report must be released to this requestor pursuant to section 724.018 of the Transportation Code.

Section 552.108(a) 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: (1) release of the information would interfere with the detection, investigation, or prosecution of crime." Gov't Code § 552.108(a)(1). Generally, a governmental body claiming section 552.108(a)(1) must 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 remaining information you marked relates to an ongoing criminal investigation and prosecution, and release of that information would interfere with the investigation and prosecution of the case. Based upon 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 (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.

However, as you acknowledge, 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). We note basic information includes an arrestee's social security number. *See id.* Accordingly, with the exception of the arrestee's social security number, the city may withhold the remaining information you marked under section 552.108(a)(1) of the Government Code.

In summary, the university must release the submitted Toxicology/Blood Alcohol Kit Laboratory Submission Form and Specimen Routing Report to this requestor pursuant to section 724.018 of the Transportation Code. Except for basic information, the university

may withhold the remaining information you marked under section 552.108(a)(1) of the Government Code. The university must release the remaining information.²

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,



Ramsey A. Abarca
Assistant Attorney General
Open Records Division

RAA/be

Ref: ID# 770116

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²As noted, the basic information includes the arrestee's social security number. 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 officer under the Act. Gov't Code § 552.147(b). However, in this instance, the requestor has a right of access to her own social security number and it must be released to her. *See generally* § 552.023(b)(person or person's authorized representative has a special right of access to records that contain information relating to the person that are protected from public disclosure by laws intended to protect that person's privacy interests.)