



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 9, 2009

Mr. Hyattye O. Simmons
General Counsel
Dallas Area Rapid Transit
P.O. Box 660163
Dallas, Texas 75266-0163

OR2009-17436

Dear Mr. Simmons:

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# 368865 (DART ORR# 6987).

The Dallas Area Rapid Transit ("DART") received a request for police report number DTC09001775. You claim the submitted information is excepted from disclosure under sections 552.103 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the submitted documents contain breath test results of an individual's blood alcohol content. Section 724.018 of the Transportation Code provides, "[o]n the request of a 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. In this instance, the requestor is the individual who submitted the specimen at the request of a peace officer. You seek to withhold the information at issue under sections 552.103 and 552.108 of the Government Code. The exceptions to disclosure found in the Act do not apply to information other statutes make public. *See* Open Records Decision No. 451 (1986) (specific statutory right of access provisions overcome general exceptions to disclosure under statutory predecessor to Act). Therefore, DART must release the breath test results we have marked to this requestor pursuant to section 724.018 of the Transportation Code.

You claim section 552.108(a)(1) of the Government Code for the remaining information. Section 552.108(a)(1) 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 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, and provide documentation showing, the remaining information relates to a criminal investigation that has been filed with the Dallas County Justice of the Peace, and release of the information would interfere with the prosecution of the crime. Based on these representations, we conclude the release of this 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. App.—Houston [14th Dist.] 1975), *writ ref’d n.r.e.*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). Thus, section 552.108(a)(1) is applicable to the remaining information.

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 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of the basic front-page offense and arrest information, DART may withhold the remaining information under section 552.108(a)(1). We note DART has the discretion to release all or part of the remaining information that is not otherwise confidential by law. Gov’t Code § 552.007.¹

In summary, DART must release the breath test results we have marked pursuant to section 724.018 of the Transportation Code. With the exception of basic information, DART may withhold the remaining information under section 552.108(a)(1) of the Government Code.

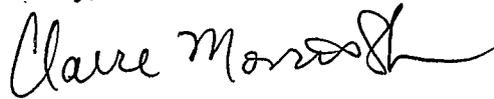
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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)

¹As our ruling is dispositive, we need not address the remaining arguments against disclosure, except to note basic information held to be public in *Houston Chronicle* is generally not excepted from public disclosure under section 552.103 of the Government Code. Open Records Decision No. 597 (1991).

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, toll free at (888) 672-6787.

Sincerely,

A handwritten signature in cursive script, appearing to read "Claire Morris Sloan".

Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/sdk

Ref: ID# 368865

Enc. Submitted documents

c: Requestor
(w/o enclosures)