



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 30, 2017

Ms. Halfreda Anderson-Nelson
Senior Assistant General Counsel
Dallas Area Rapid Transit
P.O. Box 660163
Dallas, Texas 75266-0163

OR2017-19891

Dear Ms. Anderson-Nelson:

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# 673681 (ORR #W001739-061417).

Dallas Area Rapid Transit ("DART") received a request for a specified police report. You state DART has released some information to the requestor. You claim 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.

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 submitted information relates to an ongoing investigation conducted by the DART police department, and release of the information would interfere with the investigation and prosecution of the case. Based upon this representation, we conclude the release of the submitted 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 submitted 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). 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, which you state has been released, DART may withhold the submitted information under section 552.108(a)(1) of the Government Code.

We note, however, the requestor is a representative of the Dallas Police Department ("DPD"), and may be seeking the requested information in her official capacity. In that event, DART has the discretion to release the information at issue pursuant to an intergovernmental transfer. This office has concluded that information subject to the Act may be transferred between governmental bodies without waiving exceptions to the public disclosure of that information or affecting its confidentiality. See Attorney General Opinion JM-590 (1986); Open Records Decision Nos. 655 (1997), 567 (1990), 561 (1990), 516 (1989). These decisions are based on the well-settled policy of this state that governmental agencies should cooperate with each other in the interest of the efficient and economical administration of their statutory duties. See ORD 516. Thus, pursuant to the intergovernmental transfer doctrine, DART has the discretion to release any information subject to section 552.108 to this requestor. Furthermore, the release of information pursuant to an intergovernmental transfer does not constitute a release of information to the public for the purposes of section 552.007 of the Act. See *e.g.*, Attorney General Opinion Nos. H-917 at 1 (1976), H-242 (1974); *see also* Gov't Code §§ 552,007, .352. Thus, DART does not waive its interests in withholding this information by exercising its discretion under the intergovernmental transfer doctrine. We note, however, some of the submitted information is subject to section 552.130 of the Government Code, which has an access provision governing release of information.¹ Where information is confidential by statute, the statute specifically enumerates the entities to which the information may be released, and the governmental body is not among those entities, the information may not be transferred to the governmental body. Consequently, because information subject to this exception must be withheld if DART chooses to release the submitted information pursuant to the intergovernmental transfer doctrine, we must consider the applicability of this section to the submitted information.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's or driver's license, motor vehicle title or registration, or personal identification

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

document issued by an agency of this state or another state or country is excepted from public release. Gov't Code § 552.130(a). Accordingly, DART must withhold the information we marked under section 552.130 of the Government Code if DART chooses to release the submitted information to the requestor pursuant to the intergovernmental transfer doctrine.

In summary, with the exception of the information we marked that must be withheld under section 552.130 of the Government Code, DART has the discretion to release the submitted information to DPD under the intergovernmental transfer doctrine. If DART chooses not to exercise its discretion under the intergovernmental transfer doctrine, then, with the exception of basic information, which you state has been released, DART may withhold the submitted 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.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,



Kieran Hillis
Assistant Attorney General
Open Records Division

KH/sb

Ref: ID# 673681

Enc. Submitted documents

c: Requestor
(w/o enclosures)