



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 13, 2010

Mr. Robert E. Reyna
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283

OR2010-15606

Dear Mr. Reyna:

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# 396797 (COSA File No. 2010-6303).

The San Antonio Police Department (the "department") received a request for information pertaining to three specified offense reports. You state you will release some information to the requestor. You claim the remaining requested 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)(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 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 the submitted offense reports relate to pending criminal cases. We note, however, that offense report numbers 80259134 and 80509540 involve forgery and unlawful carrying of weapons that occurred in April and July of 2008. You state the department received this request on August 2, 2010. The statute of limitations for the types of offenses described in these two reports is two years. *See Penal Code* §§ 46.02(b) (unlawful carrying weapons offense under

section 46.02 is Class A misdemeanor), 32.21(c) (forgery offense is a Class A misdemeanor); Crim. Proc. Code art. 12.02 (indictment for misdemeanor may be presented within two years from the date of the commission of the offense, and not afterward). More than two years have elapsed since the events giving rise to the investigations in offense report numbers 80259134 and 80509540, and you have not informed this office any criminal charges were filed within the limitations periods. Furthermore, you have not otherwise explained how release of these reports would interfere with the detection, investigation, or prosecution of crime. Thus, offense report numbers 80259134 and 80509540 may not be withheld under section 552.108(a)(1) of the Government Code. However, based upon your representations and our review, we conclude that section 552.108(a)(1) is generally applicable to the remaining submitted report, offense report number 80836458. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases).

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). Section 552.108(c) refers to the basic “front-page” 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 basic information, which you state you will release, the department may withhold offense report number 80836458 under section 552.108(a)(1) of the Government Code.

We note offense report numbers 80259134 and 80509540 contain information subject to sections 552.130 and 552.136 of the Government Code.¹ Section 552.130 of the Government Code excepts from disclosure “information [that] relates to . . . a motor vehicle title or registration issued by an agency of this state [.]” Gov’t Code § 552.130(a)(2). Accordingly, the department must withhold the information we have marked under section 552.130 of the Government Code.

Section 552.136 of the Government Code states that “[n]otwithstanding any other provision of [the Act], a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.” *Id.* § 552.136(b); *see id.* § 552.136(a) (defining “access device”). Upon review, we find the department must

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

withhold the information we have marked pursuant to section 552.136 of the Government Code.²

Next, we note that the instant requestor is an investigator with the Child Protective Services Division of the Texas Department of Family and Protective Services (“DFPS”). Section 411.114 of the Government Code allows, among other things, for DFPS to obtain criminal history record information (“CHRI”) concerning an individual who is the subject of a report of abuse or neglect of a child. *See id.* § 411.114(a)(4), (a)(2)(I). CHRI consists of “information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal criminal charges and their dispositions.” *See id.* § 411.082(2).

In this instance, the requestor does not state whether the individual who is the subject offense report number 80836458 is a suspect in a report of abuse or neglect of a child. Therefore, we are unable to conclude that section 411.114 of the Government Code gives the requestor a right of access to this report and must rule conditionally. *See id.* § 411.114; *see also id.* § 411.082(2). Accordingly, if the individual to whom offense report number 80836458 pertains is a suspect in a report of abuse or neglect of a child, then the department must release information from offense report number 80836458 that shows the types of allegation made and whether there was an arrest, information, indictment, detention, conviction, or other formal charges and their dispositions. *See* Open Records Decision No. 451 (1986) (specific statutory right of access provisions overcome general exceptions to disclosure under the Act). In that event, except for basic information, the department may withhold the remainder of offense report number 80836458 under section 552.108 of the Government Code. If the individual that is the subject of offense report number 80836458 is not a suspect in a report of abuse or neglect of a child, then, except for basic information, the department may withhold offense report number 80836458 under section 552.108 of the Government Code. In either event, the information marked pursuant to sections 552.130 and 552.136 of the Government Code in offense report numbers 80259134 and 80509540 must be withheld, and the remainder of these two reports must be released to the requestor.

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.

²We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas license plate numbers under section 552.130 of the Government Code, and credit card and bank account numbers under section 552.136 of the Government Code, without the necessity of requesting an attorney general decision.

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 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 "Amy Shipp".

Amy L.S. Shipp
Assistant Attorney General
Open Records Division

ALS/tp

Ref: ID# 396797

Enc. Submitted documents

c: Requestor
(w/o enclosures)