



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 24, 2012

Mr. Charles H. Weir
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283

OR2012-02867

Dear Mr. Weir:

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# 447078 (COSA ORR #W003982).

The City of San Antonio (the "city") received a request for all records pertaining to a named individual, including a specified incident. 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)(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 that the submitted information relates to "a case that is still open." We note, however, the information relates to the offense of driving while intoxicated that occurred on October 13, 2006. The statute of limitations for felony driving while intoxicated is three years from date of commission of offense. *See* Crim. Proc. Code art. 12.01(7) (providing an indictment or information on felony not listed in article 12.01(1)-(6) may be presented within three years from the date of the commission of the offense, and not afterward); *see also* Penal Code § 49.09(b) (driving while intoxicated offense under section 49.04 may be enhanced to

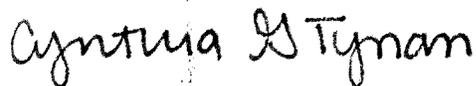
third degree felony). The statute of limitations for misdemeanor driving while intoxicated is two years from the date of the offense. *See* Crim. Proc. Code art. 12.02 (misdemeanors subject to two year limitations period); *see also* Penal Code § 49.04 (offense of driving while intoxicated under section 49.04 is misdemeanor). Thus, the longest possible statute of limitations for driving while intoxicated is three years. More than three years have elapsed since the events giving rise to the investigation in the information at issue, and you have not informed this office that any criminal charges were filed within the limitations period in this case. Additionally, you have not otherwise explained how release of this information would interfere with the detection, investigation, or prosecution of crime. Thus, you have not demonstrated the applicability of section 552.108(a)(1) of the Government Code to the submitted information and it may not be withheld on this basis.

Section 552.130 of the Government Code excepts from disclosure information that relates to a motor vehicle operator's or driver's license, title, or registration issued by an agency of this state, or another state or country.¹ Gov't Code § 552.130(a)(1)-(2). Upon review, we find the city must withhold the information we have marked under section 552.130 of the Government Code. The remaining information must be released.

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) 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,



Cynthia G. Tynan
Assistant Attorney General
Open Records Division

CGT/ag

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).

Ref: ID# 447078

Enc. Submitted documents

c: Requestor
(w/o enclosures)