



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 13, 2016

Ms. Lori Baughman
Records Clerk
Pflugerville Police Department
P.O. Box 679
Pflugerville, Texas 78691

OR2016-00987

Dear Ms. Baughman:

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# 594363 (ORR# W003556-102815).

The Pflugerville Police Department (the "department") received a request for all records from a specified arrest. You state the department has released some information. 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(a)(1) 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 inform us the submitted information pertains to a pending criminal prosecution. Based on your representation, we conclude the release of the information at issue 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, we note, and 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). Thus, with the exception of the basic information, which must be released, the department may generally withhold the submitted information under section 552.108(a)(1) of the Government Code.

We note the requestor in this instance is a representative of the Texas Department of Family and Protective Services ("DFPS"). Section 411.114 of the Government Code allows 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).

The requestor does not state whether the individual who is the subject of the submitted reports is a suspect in a report of abuse or neglect of a child. Therefore, we are unable to conclude section 411.114 of the Government Code gives the requestor a right of access to any of the submitted information and must rule conditionally. See *id.* § 411.114; see also *id.* § 411.082(2). Accordingly, if the individual to whom the submitted report pertains is a suspect in a report of abuse or neglect of a child, then the department must release information from the submitted report 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). However, if the individual to whom the submitted report pertains is not a suspect in a report of abuse or neglect of a child, then the department is not required to release these types of information from the submitted report.

In summary, with the exception of basic information, which must be released, the department may withhold the submitted information under section 552.108(a)(1) of the Government Code. However, pursuant to section 411.114 of the Government Code, the department must release information from the submitted reports that shows the types of allegation made and whether there was an arrest, information, indictment, detention, conviction, or other formal charges and their dispositions if the individual to whom the submitted reports pertain is a suspect in a report of abuse or neglect of a child.

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,

A handwritten signature in black ink, appearing to read "Ramsey Abarca", with a long, sweeping flourish extending to the right.

Ramsey A. Abarca
Assistant Attorney General
Open Records Division

RAA/dls

Ref: ID# 594363

Enc. Submitted documents

c: Requestor
(w/o enclosures)