



**ATTORNEY GENERAL OF TEXAS**  
**GREG ABBOTT**

November 7, 2012

Mr. David H. Guerra  
Counsel for City of Mission  
King, Guerra, Davis & Garcia, P.C  
P.O. Box 1025  
Mission, Texas 78573

OR2012-17892

Dear Mr. Guerra:

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# 474445.

The City of Mission (the "city"), which you represent, received a request for information pertaining to three named individuals for a specified period of time. You claim the submitted information is excepted from disclosure under sections 552.108 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 of the Government Code encompasses section 261.201 of the Family Code, which provides in relevant part:

(a) [T]he following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

- (1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and
- (2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Fam. Code § 261.201(a). Upon review, we find report number 2012-00024572 was used or developed in an investigation under chapter 261. *See id.* §§ 261.001(1) (defining “abuse” for purposes of chapter 261 of the Family Code), 101.003(a) (defining “child” for purposes of section 261.201 as person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes). Therefore, this report is within the scope of section 261.201. You do not indicate the city has adopted a rule governing the release of this type of information; therefore, we assume no such regulation exists. Given that assumption, we conclude report number 2012-00024572, which we have marked, is confidential under section 261.201(a) of the Family Code and must be withheld in its entirety under section 552.101 of the Government Code.<sup>1</sup>

Section 552.108(a)(1) of the Government Code exempts 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 must reasonably explain how release of the information at issue would interfere with the detection, investigation, or prosecution of crime. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state report numbers 2011-00018886, 2011-00017934, and 2012-00016539 pertain to pending criminal investigations. Based on your representation and our review of the information, we conclude release of these reports would interfere with the detection, investigation, or prosecution of a crime. *See Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court describes law enforcement interests that are present in active cases), *writ ref’d n.r.e per curiam*, 536 S.W.2d 559 (Tex. 1976). Therefore, section 552.108(a)(1) of the Government Code generally applies to report numbers 2011-00018886, 2011-00017934, and 2012-00016539.

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<sup>1</sup>Because our ruling as to this information is dispositive, we do not address your remaining arguments against its disclosure.

Section 552.108(a)(2) excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication.” Gov’t Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state the remaining submitted reports pertain to cases that did not result in conviction or deferred adjudication. Based on your representation and our review, we find section 552.108(a)(2) generally applies to these reports.

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. *See* 536 S.W.2d at 186-88. Basic information must be released even if it does not literally appear on the front page of an offense or arrest report. *See* Open Records Decision No. 127 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of basic information, the city may withhold report numbers 2011-00018886, 2011-00017934, and 2012-00016539 under subsection 552.108(a)(1) and the remaining submitted reports under subsection 552.108(a)(2).<sup>2</sup>

In summary, the city must withhold report number 12-00024572, which we have marked, under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. With the exception of basic information, which must be released, the city may withhold report numbers 2011-00018886, 2011-00017934, and 2012-00016539 under subsection 552.108(a)(1) of the Government Code and the remaining submitted information under subsection 552.108(a)(2) 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](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

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<sup>2</sup>Because our ruling as to this information is dispositive, we do not address your remaining argument against its disclosure.

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 that reads "Paige Lay".

Paige Lay  
Assistant Attorney General  
Open Records Division

PL/tch

Ref: ID# 474445

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)