



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 5, 2013

Mr. Juan R. Molina  
Counsel for the City of Mercedes  
Law Office of Juan R. Molina  
P. O. Box 190  
Weslaco, Texas 78599-0190

OR2013-21071

Dear Mr. Molina:

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# 507623.

The City of Mercedes (the "city"), which you represent, received a request for any and all incident reports filed with the city's police department for three specified dates. You state the city will release some information. You claim some of the submitted information is excepted from disclosure under sections 552.101 and 552.108 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. This section encompasses information protected by other statutes, such as section 58.007 of the Family Code. Juvenile law enforcement records relating to delinquent conduct that occurred on or after September 1, 1997 are confidential under section 58.007. Fam. Code § 58.007(c). The relevant language of section 58.007 reads as follows:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise,

concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

- (1) if maintained on paper or microfilm, kept separate from adult files and records;
- (2) if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are separate and distinct from controls to access electronic data concerning adults; and
- (3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapters B, D, and E.

*Id.* For purposes of section 58.007(c), “child” means a person who is ten years of age or older and under seventeen years of age at the time of the reported conduct. *See id.* § 51.02(2). Some of the submitted information involves conduct indicating a need for supervision that occurred after September 1, 1997. *See id.* § 51.03 (defining “conduct indicating a need for supervision” for purposes of Fam. Code § 58.007). Thus, this information is subject to section 58.007(c). In this instance, it does not appear any of the exceptions to confidentiality under section 58.007 apply. Accordingly, the city must withhold report numbers 1309620, 1309651, 1309652, 1309664, and 1309678 under section 552.101 in conjunction with section 58.007(c) of the Family Code.<sup>1</sup>

Section 552.101 of the Government Code also encompasses section 261.201 of the Family Code. Section 261.201 provides, in part, as follows:

(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.

---

<sup>1</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

*Id.* § 261.201(a). Upon review, we find report numbers 1309636, 1309665, and 1309681 were used or developed in investigations of alleged or suspected child abuse or neglect under chapter 261 of the Family Code. *See id.* § 261.001 (defining “abuse” and “neglect” for purposes of chapter 261 of the Family Code); *see also id.* § 101.003(a) (defining “child” for purposes of chapter 261 of the Family Code). Accordingly, we find report numbers 1309636, 1309665, and 1309681 are subject to chapter 261 of the Family Code. You state the city has not adopted a rule that governs the release of this type of information. Thus, we conclude report numbers 1309636, 1309665, and 1309681 are confidential pursuant to section 261.201 of the Family Code and must be withheld under section 552.101 of the Government Code. *See Open Records Decision No. 440 at 2 (1986) (predecessor statute).*<sup>2</sup>

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 state report numbers 1309615, 1309623, 1309626, 1309627, 1309634, 1309635, 1309643, 1309649, 1309659, 1309660, 1309662, 1309671, 1309675, 1309680, 1309686, 1309687, and 1309691 pertain to cases pending prosecution. Based on your representation, we conclude the release of report numbers 1309615, 1309623, 1309626, 1309627, 1309634, 1309635, 1309643, 1309649, 1309659, 1309660, 1309662, 1309671, 1309675, 1309680, 1309686, 1309687, and 1309691 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 report numbers 1309615, 1309623, 1309626, 1309627, 1309634, 1309635, 1309643, 1309649, 1309659, 1309660, 1309662, 1309671, 1309675, 1309680, 1309686, 1309687, and 1309691.

However, we note 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, the city may withhold report numbers 1309615, 1309623, 1309626, 1309627, 1309634, 1309635, 1309643, 1309649,

---

<sup>2</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

1309659, 1309660, 1309662, 1309671, 1309675, 1309680, 1309686, 1309687, and 1309691 under section 552.108(a)(1) of the Government Code.<sup>3</sup>

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release.<sup>4</sup> See Gov't Code § 552.130. Accordingly, the city must withhold the motor vehicle record information we marked under section 552.130 of the Government Code.<sup>5</sup>

In summary, the city must withhold report numbers 1309620, 1309651, 1309652, 1309664, and 1309678 under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. The city must withhold report numbers 1309636, 1309665, and 1309681 under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. With the exception of basic information, the city may withhold report numbers 1309615, 1309623, 1309626, 1309627, 1309634, 1309635, 1309643, 1309649, 1309659, 1309660, 1309662, 1309671, 1309675, 1309680, 1309686, 1309687, and 1309691 under section 552.108(a)(1) of the Government Code.<sup>6</sup> The city must withhold the motor vehicle record information we 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.texasattorneygeneral.gov/open/>

---

<sup>3</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

<sup>4</sup>The 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).

<sup>5</sup>Section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsections 552.130(a) without the necessity of seeking a decision from the attorney general. See Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). See *id.* § 552.130(d), (e).

<sup>6</sup>We note basic information includes the arrestees' social security numbers. Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without requesting a decision from this office under the Act.

[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 "Paige Thompson". The signature is written in a cursive style with a large initial "P".

Paige Thompson  
Assistant Attorney General  
Open Records Division

PT/dls

Ref: ID# 507623

Enc. Submitted documents

c: Requestor  
(w/o enclosures)