



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 29, 2014

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

OR2014-23412

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# 547973.

The City of Mercedes (the "city"), which you represent, received a request for a specified court file. You claim the 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.

Initially, we note the submitted information includes a court-filed document. Section 552.022(a)(17) of the Government Code provides for required public disclosure of "information that is also contained in a public court record[.]" unless the information is expressly made confidential under the Act or other law. Gov't Code § 552.022(a)(17). The city seeks to withhold the information at issue under section 552.108 of the Government Code. However, this section is a discretionary exception to disclosure that protects a governmental body's interests and does not make information confidential under the Act. *See id.* § 552.007; Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 177 at 3 (1977) (statutory predecessor to section 552.108 subject to waiver).

Therefore, the city may not withhold the court-filed document, which we have marked, under section 552.108. However, we will address the city's arguments against disclosure of the remaining information.

Section 552.108(a) 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 release of the requested information would interfere with the detection, investigation, or prosecution of crime. *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 information relates to a pending prosecution. Generally, the release of information pertaining to an open case is presumed to interfere with the criminal investigation or prosecution. *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). We note, however, the remaining information includes a notice of code violations and a notice to comply. Because we understand copies of those documents were provided to the person who is the subject of the notices, we find you have not shown how release of the notices will interfere with the detection, investigation, or prosecution of crime. *See* Gov’t Code § 552.108(a)(1). Therefore, the city may not withhold the notices under section 552.108. As the remaining information at issue has not been previously released, we find the city has demonstrated release of this information would interfere with the detection, investigation, or prosecution of crime. Thus, with the exception of the notice of code violations and notice to comply, the city may withhold the remaining information under section 552.108(a)(1) of the Government Code.

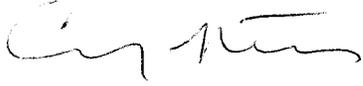
To summarize: With the exception of the court-filed document and the notices, all of which must be released, the city may withhold the submitted information under section 552.108(a)(1) of the Government Code.

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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](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 "Cindy Nettles". The signature is fluid and cursive, with a prominent initial "C" and a long, sweeping underline.

Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/dls

Ref: ID# 547973

Enc. Submitted documents

c: Requestor  
(w/o enclosures)