



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

September 8, 2015

Ms. Natasha Brooks  
Assistant City Attorney  
City of Midland  
P.O. Box 1152  
Midland, Texas 79702

OR2015-18690

Dear Ms. Brooks:

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# 578509 (Midland ORR# 16957).

The City of Midland (the "city") received a request for six specified reports. You state you have released a portion of the information to the requestor. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from 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 58.007 of the Family Code. Section 58.007 provides, in relevant part:

(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.

Fam. Code § 58.007(c). For purposes of section 58.007(c), a “child” is a person who was ten years of age or older and under seventeen years of age at the time of the conduct. *See id.* § 51.02(2). Thus, under section 58.007, law enforcement records relating to a juvenile engaged in delinquent conduct or conduct indicating a need for supervision on or after September 1, 1997 are confidential. *See id.* § 51.03(a), (b) (defining “delinquent conduct” and “conduct indicating a need for supervision”). Upon review, we find the information in Exhibit B involves a juvenile engaged in delinquent conduct or conduct indicating a need for supervision that occurred on or after September 1, 1997. It does not appear that any of the exceptions to confidentiality under section 58.007 of the Family Code apply to this information. Thus, the information in Exhibit B is confidential under section 58.007(c) of the Family Code, and the city must withhold it in its entirety under section 552.101 of the Government Code.

Section 552.101 of the Government Code also encompasses the informer’s privilege, which has long been recognized by Texas courts. *See Aguilar v. State*, 444 S.W.2d 935, 937 (Tex. Crim. App. 1969); *Hawthorne v. State*, 10 S.W.2d 724, 725 (Tex. Crim. App. 1928). The informer’s privilege protects from disclosure the identities of persons who report activities over which the governmental body has criminal or quasi-criminal law-enforcement authority, provided the subject of the information does not already know the informer’s identity. *See Open Records Decision No. 208* at 1-2 (1978). The informer’s privilege protects the identities of individuals who report violations of statutes to the police or similar law-enforcement agencies, as well as those who report violations of statutes with civil or criminal penalties to “administrative officials having a duty of inspection or of law enforcement within their particular spheres.” *Open Records Decision No. 279* at 1-2 (1981) (citing 8 John H. Wigmore, *Evidence in Trials at Common Law*, § 2374, at 767 (J. McNaughton rev. ed. 1961)). The report must be of a violation of a criminal or civil statute. *See Open Records Decision Nos. 582* at 2 (1990), 515 at 4 (1988).

The city states some of the information in Exhibit C reveals the identity of a complainant who reported possible violations of law that carry criminal penalties to the city’s police department. We understand the subject of the complaint does not know the identity of the complainant. Based on your representations and our review, we conclude the city may withhold the information we have marked in Exhibit C under section 552.101 of the Government Code in conjunction with the common-law informer’s privilege. However, we find the remaining information in Exhibit C does not identify an informer for the purposes

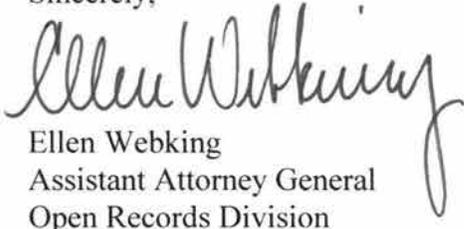
of the informer's privilege. Accordingly, the city may not withhold any portion of the remaining information in Exhibit C under section 552.101 of the Government Code in conjunction with the common-law informer's privilege.

In summary, the city must withhold the information in Exhibit B under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. The city may withhold the information we have marked under section 552.101 of the Government Code in conjunction with the common-law informer's privilege. 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/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,



Ellen Webking  
Assistant Attorney General  
Open Records Division

EW/akg

Ref: ID# 578509

Enc. Submitted documents

c: Requestor  
(w/o enclosures)