



January 16, 2015

Ms. Elizabeth Hanshaw Winn
Assistant County Attorney
Travis County
P.O. Box 1748
Austin, Texas 78767-1748

OR2015-00941

Dear Ms. Winn:

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# 550457.

The Travis County Sheriff's Office (the "sheriff's office") received a request for "a copy of incident reports for all property crimes that occurred in January 2014 in which fingerprint evidence was gathered but had not been processed as of October 23, 2014." You state you will release some information. You claim 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 representative sample of information.¹

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 encompasses information protected by other statutes, such as 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:

¹We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

- (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 ARS reports 141132 and 141578 involve juveniles engaged in delinquent conduct 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 these reports. Thus, ARS reports 141132 and 141578 are confidential under section 58.007(c) of the Family Code, and the sheriff’s office must withhold them under section 552.101 of the Government Code. Additionally, we are unable to determine the age of the alleged offender in ARS report 142113. It does not appear that any of the exceptions to confidentiality under section 58.007 apply in this instance. Thus, to the extent the offender was ten years of age or older and under seventeen years of age at the time of the conduct at issue, ARS report 142113 is confidential under section 58.007(c) of the Family Code, and the sheriff’s office must withhold it in its entirety under section 552.101 of the Government Code. However, to the extent the offender was not ten years of age or older and under seventeen years of age at the time of the conduct at issue, ARS report 142113 may not be withheld under section 552.101 on that basis. In that instance, we will consider your remaining argument against disclosure of ARS report 142113. Further, we find you have failed to demonstrate the applicability of section 58.007 to any portion of the remaining information; thus, none of the remaining information may be withheld under section 552.101 in conjunction with section 58.007 of the Family Code.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than 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.* §§ 552.108(a)(2), .301(e)(1)(A). You state the remaining information pertains to investigations that did not result in conviction or deferred adjudication. Therefore, we agree section 552.108(a)(2) is applicable to the remaining information.

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 Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.-Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). See Open Records Decision No. 127 (1976) (summarizing types of information made public by *Houston Chronicle*). Thus, with the exception of the basic information, the sheriff's office may withhold the remaining information under section 552.108(a)(2) of the Government Code.²

In summary, the sheriff's office must withhold ARS reports 141132 and 141578 under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. To the extent the offender in ARS report 142113 was ten years of age or older and under seventeen years of age at the time of the conduct at issue, the sheriff's office must withhold ARS report 142113 in its entirety under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. With the exception of basic information, which must be released, the sheriff's office may withhold the remaining information under subsection 552.108(a)(2) of the Government Code, including ARS report 142113 if the offender in that report was not ten years of age or older and under seventeen years of age at the time of the conduct at issue.

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,



Rahat Huq
Assistant Attorney General
Open Records Division

RSH/dls

²As our ruling is dispositive, we need not address your remaining argument against disclosure.

Ref: ID# 550457

Enc. Submitted documents

c: Requestor
(w/o enclosures)