



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 16, 2017

Mr. Thomas M. Gilliland
Public Information Officer
Harris County Sheriff's Office
1200 Baker Street, 2nd Floor
Houston, Texas 77002-1206

OR2017-23617

Dear Mr. Gilliland:

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# 685832 (HSCO File No. 17SO5001017).

The Harris County Sheriff's Office (the "sheriff's office") received a request for information pertaining to a specified report. You claim the requested 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 disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses section 58.008 of the Family Code, which provides, in part:

(b) Except as provided by Subsection (d), law enforcement records concerning a child and information concerning a child that are stored by electronic means or otherwise from which a record could be generated may not be disclosed to the public and shall be:

(1) if maintained on paper or microfilm, kept separate from adult records;

(2) if maintained electronically in the same computer system as adult records, accessible only under controls that are separate and distinct from the 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 Subsection (c) or Subchapter B, D, or E.

...

(d) Law enforcement records concerning a child may be inspected or copied by:

(1) a juvenile justice agency, as defined by Section 58.101;

(2) a criminal justice agency, as defined by Section 411.082, Government Code;

(3) the child; or

(4) the child's parent or guardian.

(e) Before a child or a child's parent or guardian may inspect or copy a record concerning the child under Subsection (d), the custodian of the record shall redact:

...

(2) any information that is excepted from required disclosure under [the Act] or any other law.

Act of May 28, 2017, 85th Leg., R.S., ch. 746, § 13, 2017 Tex. Sess. Law Serv. 3173, 3176-77 (to be codified at Fam. Code § 58.008(b), (d), (e)(2)); *see also* Fam. Code § 51.03(a) (defining "delinquent conduct" for purposes of title 3 of Family Code); Act of May 19, 2017, 85th Leg., R.S., ch. 324, § 7.002, 2017 Tex. Sess. Law Serv. 848 (to be codified as amendments to Fam. Code § 51.03(b)); Act of May 19, 2017, 85th Leg., R.S., ch. 324, § 7.002, 2017 Tex. Sess. Law Serv. 848 (to be codified as amendments to Fam. Code § 51.03(b)) (defining 'conduct indicating a need for supervision'). Section 58.008(b) is applicable to records of juvenile conduct that occurred before, on, or after September 1, 2017. *See* Act of May 28, 2017, 85th Leg., R.S., ch. 746, § 22, 2017 Tex. Sess. Law Serv. 3173, 3187. The juvenile must have been at least 10 years old and less than 17 years of age when the conduct occurred. *See* Fam Code § 51.02(2) (defining "child" for purposes of title 3 of Family Code). We find the submitted information involves a juvenile

offender, so as to fall within the scope of section 58.008(b). However, we are unable to determine if the requestor has a right of access to this information under section 58.008(d) as the child's parent. If the sheriff's office determines the requestor does not have a right of access under section 58.008(d), then the sheriff's office must withhold the submitted information in its entirety under section 552.101 of the Government Code in conjunction with section 58.008(b) of the Family Code. If the sheriff's office determines the requestor does have a right of access under section 58.008(d), then the sheriff's office may not withhold the submitted information on the basis of section 58.008(b) of the Family Code. *See* Act of May 28, 2017, 85th Leg., R.S., ch. 746, § 13, 2017 Tex. Sess. Law Serv. 3173, 3176-77 (to be codified at Fam. Code § 58.008(d)). However, section 58.008(e)(2) provides that information subject to any other exception to disclosure under the Act or other law must also be redacted. *See* Act of May 28, 2017, 85th Leg., R.S., ch. 746, § 13, 2017 Tex. Sess. Law Serv. 3173, 3176-77 (to be codified at Fam. Code § 58.008(e)(2)). Thus, we will consider your argument under section 552.108 of the Government Code with respect to submitted information.

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.* § 552.301(e) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state the submitted information relates to a concluded case that did not result in a conviction or deferred adjudication. Based on your representations and our review, we conclude section 552.108(a)(2) is applicable to the submitted information.

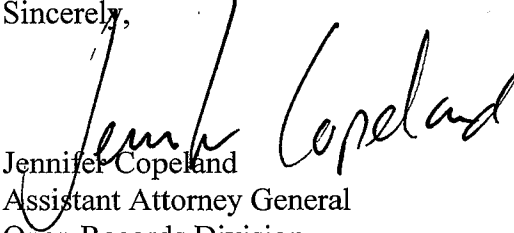
Section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 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 basic information, which must be released to this requestor, the sheriff's office may withhold the submitted information pursuant to section 552.108(a)(2) of the Government Code.¹

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.

¹Because the requestor has a right of access to certain information that otherwise would be excepted from release under the Act, the sheriff's office must again seek a decision from this office if it receives a request for this information from a different requestor.

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,



Jennifer Copeland
Assistant Attorney General
Open Records Division

JC/sb

Ref: ID# 685832

Enc. Submitted documents

c: Requestor
(w/o enclosures)