



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 16, 2018

Mr. Matthew L. Grove
Assistant County Attorney
Fort Bend County
401 Jackson Street, 3rd Floor
Richmond, Texas 77469

OR2018-03809

Dear Mr. Grove:

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# 696352.

The Fort Bend County Sheriff's Office (the "sheriff's office") received a request for a specified incident report. The sheriff's office claims the requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the claimed exceptions 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 section 58.008(b) of the Family Code, which provides as follows:

Except as provided by Subsection (d), law enforcement records concerning a child and information concerning a child that are stored by electronic means

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.

or otherwise and 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.

Fam. Code § 58.008(b); *see also id.* §§ 51.03(a)-(b) (defining “delinquent conduct” and “conduct indicating a need for supervision” for purposes of title 3 of Family Code). We understand the sheriff’s office to assert the submitted information is subject to section 58.008(b).² 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 ten years old and less than seventeen years of age when the conduct occurred. *See* Fam. Code § 51.02(2) (defining “child” for purposes of title 3 of Family Code). Upon review, we find the submitted information does not involve a juvenile suspect, offender, or defendant engaging in delinquent conduct or conduct indicating a need for supervision for the purposes of section 58.008(b). *See id.* Thus, the sheriff’s office may not withhold the submitted information under section 552.101 of the Government Code in conjunction with section 58.008 of the Family Code.

Section 552.108(a)(2) of the Government Code exempts 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 information at issue relates to a criminal investigation that has concluded in a final result other than conviction or deferred adjudication. *See id.* §§ 552.108(a)(2), .301(e)(1)(A). The sheriff’s office states the submitted information pertains to a case that concluded in a result other than conviction or deferred adjudication. Therefore, we agree section 552.108(a)(2) is applicable to this information.

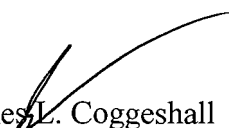
²Although the sheriff’s office raises section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code, we note the 85th Legislature repealed this provision effective September 1, 2017. Act of May 28, 2017, 85th Leg., R.S., ch. 746, § 21, 2017 Tex. Sess. Law Serv. 3173, 3187.

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 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of basic information, which the sheriff's office must release, the sheriff's office may withhold the submitted information under section 552.108(a)(2) 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, 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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/tdw

Ref: ID# 696352

Enc. Submitted documents

c: Requestor
(w/o enclosures)