



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 27, 2019

Ms. Elizabeth Lutton
Legal Advisor
Dallas County Sheriff's Office
133 North Riverfront Boulevard LB #31
Dallas, Texas 75207

OR2019-17741

Dear Ms. Lutton:

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# 772533.

The Dallas County Sheriff's Office (the "sheriff's office") received a request for reports pertaining to two specified locations.¹ You state the sheriff's office has released some of the requested information. You claim the submitted information is excepted from disclosure under sections 552.101, 552.103, and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we must address the sheriff's office's obligations under section 552.301 of the Government Code, which prescribes the procedures a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. Pursuant to subsection 552.301(e), a governmental body must submit to this office within fifteen business days of receiving an open records request (1) written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, (3) a signed statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate

¹As you have not submitted a copy of the request for information, we take this description from your brief.

which exceptions apply to which parts of the documents. *See id.* § 552.301(e). You state the sheriff's office received the request for information on April 4, 2019. Accordingly, you were required to provide the information required by subsection 552.301(e) by April 25, 2019. As of the date of this letter, you have not submitted for our review a copy of the written request for information. Consequently, we find the sheriff's office failed to comply with the requirements of section 552.301 in requesting this decision from our office.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless there is a compelling reason to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ). The sheriff's office claims sections 552.101, 552.103, and 552.108 of the Government Code for the submitted information. Because section 552.101 of the Government Code can provide compelling reasons to overcome the presumption of openness, we will consider its applicability to the submitted information. However, we find you have failed to establish a compelling reason to address your remaining exceptions.

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 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). 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). Upon review, we find the information we marked involves juvenile offenders, so as to fall within the scope of section 58.008(b). It does not appear that any of the exceptions in section 58.008 apply; therefore, the sheriff’s office must withhold the information we marked under section 552.101 of the Government Code in conjunction with section 58.008(b) of the Family Code. However, the remaining information does not identify a suspect or offender who is ten years of age or older and under seventeen years of age. As such, section 58.008(b) is not applicable and the sheriff’s office may not withhold the remaining information under section 552.101 on this basis. 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, 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/gw

Ref: ID# 772533

Enc. Submitted documents

c: Requestor
(w/o enclosures)