



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 11, 2015

Ms. Daphne Session
County Attorney
County of Houston
401 East Houston Avenue, 2nd Floor
Crockett, Texas 75835

OR2015-04579

Dear Ms. Session:

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# 558588.

The Houston County Sheriff's Office (the "sheriff's office") received a request for information relating to officer-involved shootings since January 1, 2004. The sheriff's office states it has released some of the requested information, but claims the submitted information is excepted from disclosure under sections 552.101, 552.108, 552.1085, 552.117, 552.130, and 552.147 of the Government Code.¹ We have considered the claimed exceptions 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. This section encompasses information protected by other statutes, including section 58.007 of the Family Code. Section 58.007(c) reads as follows:

¹Although the sheriff's office also raises section 552.107 of the Government Code, it has not submitted arguments explaining how this exception applies to the submitted information. Therefore, we presume the sheriff's office no longer asserts this exception. *See* Gov't Code §§ 552.301, .302. In addition, although the sheriff's office asserts some of the information is excepted from disclosure under section 552.101 in conjunction with section 552.130 of the Government Code, this office has concluded section 552.101 does not encompass other exceptions found in the Act. *See* Open Records Decision No. 676 at 1-2 (2002).

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 Title 3 of the Family Code, a “child” is defined as a person ten years of age or older and under seventeen years of age when the conduct occurred. *Id.* § 51.02(2)(A). Section 58.007(c) is not applicable to information that relates to a juvenile as a complainant, victim, witness, or other involved party; it is only applicable to juveniles listed as suspects or offenders. *See id.* §§ 51.03 (defining “delinquent conduct” and “conduct indicating a need for supervision” for purposes of section 58.007), 58.007. Although the sheriff’s office asserts portions of incident report number 04-009969 are confidential under section 58.007, this report does not identify a juvenile suspect or offender for purposes of that section. Accordingly, incident report number 04-009969 is not confidential under section 58.007(c) of the Family Code, and the sheriff’s office may not withhold it under section 552.101 of the Government Code on that ground.

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 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 cases that concluded in results other than conviction or deferred adjudication. Therefore, we agree section 552.108(a)(2) is applicable to this information.

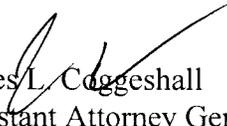
However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). *See* Open Records Decision No. 127 at 3-4 (1976) (summarizing

types of information deemed public by *Houston Chronicle*). The sheriff's office must release basic information, even if the information does not appear on the front page of an offense or arrest report. Thus, with the exception of basic information, the sheriff's office may withhold the submitted information under section 552.108(a)(2) of the Government Code.²

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/cbz

Ref: ID# 558588

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²As our ruling is dispositive, we do not address your other arguments to withhold this information.