



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 25, 2015

Mr. Caleb Thornton
Assistant County Attorney
Montgomery County
501 North Thompson, Suite 102
Conroe, Texas 77301

OR2015-12705

Dear Mr. Thornton:

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# 568946 (ORR 15PIA216).

The Montgomery County Sheriff's Office (the "sheriff's office") received a request for a specified report. 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 information.

Section 552.101 of the Government Code excepts from required public disclosure information made confidential by law, either constitutional, statutory, or judicial decision. Gov't Code § 552.101. Section 552.101 encompasses confidentiality provisions such as Family Code section 58.007. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential under section 58.007. The relevant language of section 58.007(c) reads as follows:

(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:

- (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), “child” means a person who is ten years of age or older and under seventeen years of age at the time of the reported conduct. *Id.* § 51.02(2). The information at issue involves criminal conduct that occurred after September 1, 1997, and contains the identifying information of individuals who may have been juvenile offenders. However, you state you “are unable to definitively determine the age of the suspects in this case.” In addition, the submitted information does not reflect the individuals’ ages. It does not appear any of the exceptions to confidentiality under section 58.007 apply in this instance. Therefore, to the extent one of the individuals listed as a suspect in the information at issue was ten years of age or older and under seventeen years of age at the time of the alleged conduct, the sheriff’s office must withhold the information based on section 552.101 in conjunction with section 58.007(c). To the extent none of the individuals listed as a suspect was ten years of age or older and under seventeen years of age at the time of the conduct, the submitted information is not confidential under section 58.007(c) and the sheriff’s office may not withhold the information on that basis. In that circumstance, we will address your argument under section 552.108(a)(2) of the Government 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 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.

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*). 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.

In summary, to the extent any one of the individuals listed as a suspect was ten years of age or older and under seventeen years of age at the time of the conduct, the submitted report is confidential under section 58.007(c) and the sheriff's office must withhold the report in its entirety under section 552.101 of the Government Code. To the extent none of the individuals listed as a suspect was ten years of age or older and under seventeen years of age at the time of the conduct, with the exception of the basic information, which must be released, 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,



Kay Hastings
Assistant Attorney General
Open Records Division

KH/sdk

Ref: ID# 568946

Enc. Submitted documents

c: Requestor
(w/o enclosures)