



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 5, 2015

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

OR2015-23264

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# 586089.

The Fort Bend County Sheriff's Office (the "sheriff's office") received a request for all police calls and complaints pertaining to specified addresses during a specified time period. You state the sheriff's office has released some information. 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 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 information made confidential by statute. Juvenile law enforcement records relating to conduct that occurred on or after

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 that those records contain substantially different types of information than that submitted to this office.

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. *See id.* § 51.02(2). Upon review, we find the offense reports and call slips we have marked pertain to a juvenile suspect who was ten years of age or older and under seventeen years of age at the time of the incidents that are the subject of the submitted reports. Further, the information at issue involves delinquent conduct or conduct indicating a need for supervision that occurred on or after September 1, 1997. *See* Act of June 1, 2015, 84th Leg., R.S., ch. 935, § 18, 2015 Tex. Sess. Law Serv. 3224, 3233 (Vernon) (to be codified as an amendment to Fam. Code § 51.03(a)) (defining “delinquent conduct” for purposes of section 58.007); Act of May 31, 2015, 84th Leg., R.S., ch. 944, § 4, 2015 Tex. Sess. Law Serv. 3268, 3269-70 (Vernon) (to be codified as an amendment to Fam. Code § 51.03(b)) (defining “conduct indicating a need for supervision” for purposes of section 58.007); Act of June 1, 2015, 84th Leg., R.S., ch. 1273, § 3, 2015 Tex. Sess. Law Serv. 4310, 4311 (Vernon) (to be codified as an amendment to Fam. Code § 51.03(b)). It does not appear any of the exceptions in section 58.007 apply; therefore, the information at issue is confidential pursuant to section 58.007(c) of the Family Code. Accordingly, the sheriff’s office must withhold the offense reports and call slips we have marked under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code.²

Section 552.108(a)(1) of the Government Code excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or

²As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime.” Gov’t Code § 552.108(a)(1). Generally, a governmental body claiming section 552.108(a)(1) must reasonably explain how and why the release of the requested information would interfere with law enforcement. See Gov’t Code §§ 552.108(a)(1), .301(e)(1)(A); see also *Ex parte Pruitt*, 551 S.W.2d 706, 710 (Tex. 1977). You state a portion of the remaining information relates to a pending criminal investigation. Based upon this representation, we conclude the release of the information at issue would interfere with the detection, investigation, or prosecution of crime. See *Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177, 186-87 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559, 560-61 (Tex. 1976). Thus, section 552.108(a)(1) is applicable to the information we have marked under section 552.108(a)(1) 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. See 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.*; see also *id.* § 552.301(e)(1)(A). You state the remaining information relates to cases that are closed. You also state the information at issue pertains to cases that concluded in results other than convictions or deferred adjudications. Based on your representations, we find section 552.108(a)(2) is applicable to the information we have marked under section 552.108(a)(2) of the Government Code.

However, as you acknowledge, 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*. See 531 S.W.2d at 186-87; see also Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of basic information, the sheriff’s office may withhold the information we have marked under section 552.108(a)(1) and section 552.108(a)(2) of the Government Code.

In summary, the sheriff’s office must withhold the offense reports and call slips we have marked under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. With the exception of basic information, the sheriff’s office may withhold the information we have marked under section 552.108(a)(1) and 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,

A handwritten signature in cursive script that reads "Cole Hutchison".

Cole Hutchison
Assistant Attorney General
Open Records Division

CH/bhf

Ref: ID# 586089

Enc. Submitted documents

c: Requestor
(w/o enclosures)