



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 25, 2015

Ms. Josephine Ramirez Solis
Assistant District Attorney
County of Hidalgo
100 North Closner, Room 303
Edinburg, Texas 78539

OR2015-24794

Dear Ms. Solis:

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# 588851 (ORR# 2015-0097-DA.SO).

The Hidalgo County Sheriff's Office (the "sheriff's office") received a request for information pertaining to a specified incident. The sheriff's office claims the requested information is either not subject to the Act or excepted from disclosure under sections 552.101 and 552.108 of the Government Code.¹ We have considered the submitted arguments and reviewed the submitted representative sample of information.²

The judiciary is expressly excluded from the requirements of the Act. Gov't Code § 552.003(1)(B). This office has determined a grand jury, for purposes of the Act, is a part of the judiciary and, therefore, not subject to the Act. Open Records Decision No. 411 (1984). Further, records kept by a governmental body that is acting as an agent for a grand jury are considered records in the constructive possession of the grand jury and are also not

¹Although the sheriff's office raises section 552.103(1)(B) of the Government Code, we understand the sheriff's office to raise section 552.003(1)(B) of the Government Code for the information at issue, instead.

²We 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.

subject to the Act. Open Records Decisions Nos. 513 (1988), 411, 398 (1983). *But see* ORD 513 at 4 (defining limits of judiciary exclusion). Thus, to the extent the sheriff's office holds the information at issue as an agent of the grand jury, the information consists of records of the judiciary not subject to disclosure under the Act. To the extent the submitted information does not consist of records of the judiciary, we will address your exceptions to disclosure.

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.³

In summary, to the extent the submitted information is in the custody of the sheriff's office as an agent for the grand jury, these records are in the grand jury's constructive possession and are not subject to the Act. To the extent the sheriff's office does not have possession of the submitted information as an agent of the grand jury, then, 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.

³As our ruling is dispositive, we do not address the sheriff's office's other arguments to withhold this information. We also note the basic information contains the arrestee's social security number. *See* ORD 127 at 4. Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. Gov't Code § 552.147(b).

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/dls

Ref: ID# 588851

Enc. Submitted documents

c: Requestor
(w/o enclosures)