



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 17, 2011

Ms. Katie Lentz
Open Records
Williamson County Sheriff's Office
508 South Rock Street
Georgetown, Texas 78626

OR2011-15026

Dear Ms. Lentz:

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# 433296.

The Williamson County Sheriff's Office (the "sheriff") received a request for offense reports pertaining to all arrests of the requestor. You claim that some of the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.152 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the requestor excluded Texas driver's license numbers, Texas license plate numbers, vehicle identification numbers, and social security numbers from his request. Therefore, those types of information are not responsive to the present request for information. This ruling does not address the public availability of any information that is not responsive to the request, and the sheriff need not release such information.

Section 552.101 of the Government Code excepts from public 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 other statutes. Juvenile law enforcement records relating to conduct that occurred on or after

¹Although you claim the information is excepted under section 552.151 of the Government Code, we note the 82nd Texas Legislature renumbered section 552.151 to section 552.152 of the Government Code. Act of May 9, 2011, 82nd Leg., R.S., S.B. 1303, § 27.001(20).

September 1, 1997 are confidential under section 58.007 of the Family Code. The relevant language of section 58.007 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.

...

(e) Law enforcement records and files concerning a child may be inspected or copied by a juvenile justice agency as that term is defined by Section 58.101, a criminal justice agency as that term is defined by Section 411.082, Government Code, the child, and the child's parent or guardian.

...

(j) Before a child or a child's parent or guardian may inspect or copy a record or file concerning the child under Subsection (e), the custodian of the record or file shall redact:

(1) any personally identifiable information about a juvenile suspect, offender, victim, or witness who is not the child; and

(2) any information that is excepted from required disclosure under Chapter 552, Government Code, or other law.

Fam. Code § 58.007(c), (e), (j). Upon review, we find report number 98-01-03897J involves delinquent conduct that occurred after September 1, 1997. *See id.* § 51.03 (defining "delinquent conduct" for purposes of Fam. Code § 58.007); *see also id.* § 51.02(2) (defining "child" as a person who is ten years of age or older and younger than seventeen years of age). Therefore, this information is subject to section 58.007. In this instance, the requestor is one of the juvenile suspects listed in the report at issue. Accordingly, section 58.007(e) allows

the requestor access to his own law enforcement records. *Id.* § 58.007(e). However, personally identifiable information concerning any other juvenile suspects, offenders, victims, or witnesses must be redacted pursuant to section 58.007(j)(1) of the Family Code. *See id.* § 58.007(j)(1). In addition, the sheriff must redact any information that is excepted from required disclosure under the Act. *See id.* § 58.007(j)(2). As you claim section 552.108 of the Government Code, we will consider its applicability to the submitted information.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that did not result in 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 concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state report numbers 98-01-03897J and 96-07-2900J relate to closed cases that did not result in conviction or deferred adjudication. Based on your representation and our review, we find section 552.108(a)(2) is generally applicable to the these cases.

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 may withhold report numbers 98-01-03897J and 96-07-2900J under section 552.108(a)(2) of the Government Code. However, in releasing basic information in report number 98-01-03897J, the sheriff must withhold the personally identifiable information pertaining to the other juvenile suspects, which we have marked, pursuant to section 58.007(j)(1) of the Family Code.

Finally, you seek to withhold the name and employee numbers of an undercover narcotics officer. Section 552.152 of the Government Code provides as follows:

Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from the requirements of Section 552.021 if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm.

Act of May 9, 2011, 82nd Leg., R.S., S.B. 1303, § 27.001(20) (to be codified as Gov't Code § 552.152). You represent to this office that the release of the name and employee numbers of the undercover narcotics officer, which you have marked, would subject the officer to a substantial threat of physical harm. Based on your representations, we find the sheriff has demonstrated that release of the information at issue would subject the officer to a substantial threat of physical harm. We therefore conclude that the sheriff must withhold the marked

name and employee numbers of the undercover narcotics officer under section 552.152 of the Government Code.

In summary, with the exception of basic information, the sheriff may withhold report numbers 98-01-03897J and 96-07-2900J under section 552.108(a)(2) of the Government Code. However, in releasing basic information in report number 98-01-03897J, the sheriff must withhold the personally identifiable information pertaining to the other juvenile suspects, which we have marked, pursuant to section 58.007(j)(1) of the Family Code. The sheriff must withhold the marked name and employee numbers of the undercover narcotics officer under section 552.152 of the Government Code. The remaining responsive 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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Sarah Casterline
Assistant Attorney General
Open Records Division

SEC/ag

Ref: ID# 433296

Enc. Submitted documents

c: Requestor
(w/o enclosures)