



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

January 24, 2018

Mr. Whitt L. Wyatt  
Counsel for the City of Allen  
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.  
500 North Akard, Suite 1800  
Dallas, Texas 75201

OR2018-01649

Dear Mr. Wyatt:

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# 692736 (Your File Ref. #93111).

The Allen Police Department (the "department"), which you represent, received a request for an incident report. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.<sup>1</sup>

The department informs us the requested information is subject to court orders of restricted access received by the department that were issued prior to September 1, 2017. The orders were entered in accordance with repealed section 58.203 of the Family Code as that law existed before September 1, 2017, which stated the Texas Department of Public Safety shall certify that juvenile law enforcement records are subject to automatic restriction of access under certain circumstances. *See* Act of May 28, 2017, 85th Leg., R.S., ch. 746 (S.B. 1304),

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<sup>1</sup>We assume that 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.

§ 21 (repealing section 58.203 of the Family Code). However, section 58.260 of the Family Code now provides, in relevant part:

(a) A juvenile court may allow, by order, the inspection of records sealed under this subchapter or under Section 58.003, as that law existed before September 1, 2017, only by:

(1) a person named in the order, on the petition of the person who is the subject of the records;

(2) a prosecutor, on the petition of the prosecutor, for the purposes of reviewing the records for possible use:

(A) in a capital prosecution; or

(B) for the enhancement of punishment under Section 12.42, Penal Code; or

(3) a court, the Texas Department of Criminal Justice, or the Texas Juvenile Justice Department for the purposes of Article 62.007(e), Code of Criminal Procedure.

Fam. Code § 58.260(a). Section 58.258 of the Family Code provides, in part:

(a) An order sealing the records of a person under this subchapter must include either the following information or the reason one or more of the following is not included in the order:

...

(5) a list of the entities believed to be in possession of the records that have been ordered sealed, including the entities listed under Subsection (b).

(b) Not later than the 60th day after the entry of the order, the court shall provide a copy of the order to:

...

(6) each law enforcement agency that had contact with the person in relation to the conduct that is the subject of the sealing order[.]

(c) ... The clerk of court shall:

...

(2) send copies of the order to all entities listed in the order.

*Id.* § 58.258(a)(5), (b)(6), (c)(2). Moreover, section 58.259 of the Family Code provides, in part:

(c) If an entity that received an order to seal records relating to a person later receives an inquiry about a person or the matter contained in the records, the entity must respond that no records relating to the person or the matter exist.

*Id.* § 58.259(a). In this instance, the requestor is not one of the individuals or entities listed in section 58.260 to which access is allowed. Therefore, pursuant to the order of restricted access received by the department and section 58.259 of the Family Code, the department must respond to this request for information by stating the requested information does not exist.

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](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,



Erin Groff  
Assistant Attorney General  
Open Records Division

EMG/sb

Ref: ID# 692736

Enc. Submitted documents

c: Requestor  
(w/o enclosures)