



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

July 3, 2019

Ms. Shea Smith  
Assistant City Attorney  
City of Sugar Land  
P.O. Box 110  
Sugar Land, Texas 77487-0110

OR2019-18353

Dear Ms. Smith:

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# 773202 (ORR# W006664).

The City of Sugar Land (the "city") received a request for two specified incident reports. The city claims the requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the claimed exceptions and reviewed the submitted information.

The city informs us some of the requested information is subject to court orders of restricted access received by the city 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 The orders were entered in accordance with repealed section 58.203 of the Family Code as that law existed before September 1, 2017, which stated the Texas Department of Public Safety shall certify that juvenile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), § 21 (repealing section 58.203 of the Family Code). However, section 58.260(a) of the Family Code now provides the following:

- (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.

*Id.* § 58.260(a). Section 58.258 of the Family Code also provides, in part, as follows:

(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(c) of the Family Code provides, “[i]f 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). 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 city and section 58.259 of the Family Code, the city must respond to this request for information by stating a portion of the requested information does not exist.<sup>1</sup>

Section 552.108(a) of the Government Code excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if: (1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov’t Code § 552.108(a)(1). A governmental body claiming section 552.108(a)(1) must explain how and why the release of the information at issue would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706, 710 (Tex. 1977). The city states incident report number 17-4050 relates to a pending criminal investigation or prosecution. Based on this representation, we conclude the release of this information 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) (delineating law enforcement interests present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

Section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov’t Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88; 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 city may withhold incident report number 17-4050 under section 552.108(a)(1) of the Government Code.

In summary, pursuant to the order of restricted access and section 58.259 of the Family Code, the city must respond to this request for information by stating a portion of the requested information does not exist. With the exception of basic information, which the city must release, the city may withhold incident report number 17-4050 under section 552.108(a)(1) 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.

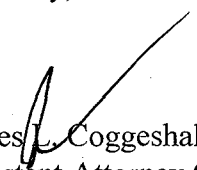
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at <http://www.texasattorneygeneral.gov/open/>

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<sup>1</sup>As our ruling is dispositive, we do not address the other arguments of the city to withhold this information.

[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/gw

Ref: ID# 773202

Enc. Submitted documents

c: Requestor  
(w/o enclosures)