ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 16, 2008

Mr. C. Patrick Phillips
Assistant City Attorney
The City of Fort Worth
1000 Throckmorton Street, 3rd Floor
Fort Worth, Texas 76102

OR2008-05051

Dear M. Phillips:

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# 309201.

The City of Fort Worth (the "city") received a request for a specified incident report. You claim that 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 information.

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 protected by other statutes, such as section 58.007 of the Family Code. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential under section 58.007. For purposes of section 58.007, "child" means a person who is ten years of age or older and under seventeen years of age. *See* Fam. Code § 51.02(2). 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 Subchapter 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). We have reviewed the submitted information and find it involves allegations of delinquent juvenile conduct that occurred after September 1, 1997. Thus, this information is subject to section 58.007. We note, and you affirm, that the requestor is the attorney for one of the juvenile offenders. Therefore, if the requestor is requesting this information on behalf of the juvenile offender at issue, the requestor has a right of access to the information. Under section 58.007(e), a parent of the juvenile offender or the juvenile offender himself or herself may inspect law enforcement records concerning that juvenile offender. *Id.* §58.007(c). However, section 58.007(j)(1) requires the redaction of any personally identifiable information concerning other juvenile suspects, offenders,

victims, or witnesses. *See* Fam. Code § 58.007(j)(1). Thus, if the requestor is not requesting the information on behalf of the parent or juvenile offender, then the submitted information must be withheld under section 552.101 in conjunction with section 58.007 of the Family Code. However, if the requestor is requesting the submitted information on behalf of the parent or juvenile offender, then he has a right to inspect the submitted information, with any personally identifiable information, which we have marked, concerning other juvenile suspects, offenders, victims, or witnesses redacted.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

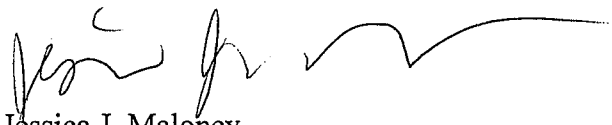
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can challenge that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Jessica J. Maloney
Assistant Attorney General
Open Records Division

JJM/jh

Ref: ID# 309201

Enc. Submitted documents

c: Mr. Eric R. Reyes
The Reyes Law Firm, PC
1200 Summit Avenue, Suite 422
Fort Worth, Texas 76102
(w/o enclosures)