ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 28, 2013

Mr. Jeffrey L. Moore
Counsel for City of Forney
Brown & Hofmeister, L.L.P.
740 East Campbell Road Suite 800
Richardson, Texas 75081

OR2013-01558

Dear Mr. Moore:

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# 481180.

The City of Forney (the "city"), which you represent, received a request for police reports related to three specified incident numbers. You claim the requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the information you submitted.

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. This exception encompasses information made confidential by other statutes, including section 58.007 of the Family Code, which provides in part:

> (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.

Fam. Code § 58.007(c); *see id.* § 51.03(a)-(b) (defining "delinquent conduct" and "conduct indicating need for supervision" for purposes of Fam. Code title 3). Section 58.007(c) is applicable to records of juvenile conduct that occurred on or after September 1, 1997. *See* Act of June 2, 1997, 75th Leg., R.S., ch. 1086, §§ 20, 55(a), 1997 Tex. Gen. Laws 4179, 4187, 4199; Open Records Decision No. 644 (1996). The juvenile must have been at least 10 years old and less than 17 years of age when the conduct occurred. *See* Fam. Code § 51.02(2) (defining "child" for purposes of Fam. Code title 3). We conclude incident report numbers 201217240 and 201217336, both of which involve juvenile suspects, are confidential under section 58.007(c) of the Family Code and must be withheld on that basis under section 552.101 of the Government Code.[1]

Section 552.108(a)(1) 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 . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]" Gov't Code § 552.108(a)(1). A governmental body must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the release of incident report number 201218228 would interfere with a pending criminal case. Based on your representations, we conclude section 552.108(a)(1) is applicable to that report. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

We note 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). Section 552.108(c) refers to the basic front-page offense and arrest 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*). The city must release basic information, including a detailed description of the offense, even if the information does not literally appear on the front page of an offense or arrest report. The city may withhold the remaining information in incident report number 201218228 under section 552.108(a)(1) of the Government Code.

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[1]As we are able to make this determination, we need not address your other claim under section 552.101 of the Government Code.

In summary, the city (1) must withhold incident report numbers 201217240 and 201217336 under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code and (2) may withhold incident report number 201218228 under section 552.108(a)(1) of the Government Code, except for basic information under section 552.108(c), which 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,

James W. Morris III

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/bhf

Ref: ID# 481180

Enc: Submitted documents

c: Requestor
(w/o enclosures)