



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 13, 2012

Ms. Tiffany Bull  
Assistant City Attorney  
Arlington Police Department  
Mail Stop 04-0200  
P.O. Box 1065  
Arlington, Texas 76004-1065

OR2012-09127

Dear Ms. Bull:

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# 456167 (Reference# 7326-032912).

The Arlington Police Department (the "department") received a request for report numbers 120000336 and 120017672. 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.

Initially, we note you have not submitted report number 120017672. To the extent this information existed and was maintained by the department on the date the department received the request, we assume you have released it. If you have not released such information, you must do so at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

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 section encompasses information made confidential 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(c), which 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.

Fam. Code § 58.007(c). For purposes of section 58.007(c), “child” means a person who is ten years of age or older and under seventeen years of age. *See id.* § 51.02(2). The information at issue involves delinquent conduct that occurred after September 1, 1997. *See id.* § 51.03 (defining “delinquent conduct” for purposes of Fam. Code § 58.007). However, we are unable to determine the age of two of the offenders at issue. Thus, we must rule conditionally. It does not appear any of the exceptions in section 58.007 apply to the submitted information. Thus, to the extent the submitted information constitutes a record of a juvenile engaged in delinquent conduct who was ten years of age or older and under seventeen years of age at the time of the commission of the crime, the submitted information is confidential pursuant to section 58.007(c) of the Family Code and must be withheld from this requestor under section 552.101 of the Government Code. However, to the extent the submitted information does not pertain to a suspect who was ten years of age or older and under seventeen years of age at the time of the commission of the crime, the submitted information is not confidential pursuant to section 58.007(c) and may not be withheld from this requestor under section 552.101 on that basis.

If the submitted information does not pertain to a suspect who was ten years of age or older and under seventeen years of age at the time of the commission of the crime, we note the submitted information contains information subject to sections 552.130 and 552.137 of the

Government Code.<sup>1</sup> Section 552.130 of the Government Code excepts from disclosure information that relates to a motor vehicle operator's or driver's license or permit issued by an agency of this state or another state or country. Gov't Code § 552.130(a)(1). Upon review, we find the department must withhold the information we have marked under section 552.130 of the Government Code.

Section 552.137 of the Government Code excepts from disclosure "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body," unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *Id.* § 552.137(a)-(c). The address we have marked does not appear to be of a type specifically excluded by section 552.137(c). Accordingly, the department must withhold the marked e-mail address under section 552.137, unless the owner of the address affirmatively consents to its release.<sup>2</sup> *See id.* § 552.137(b).

In summary, if the submitted information constitutes a record of a juvenile engaged in delinquent conduct who was ten years of age or older and under seventeen years of age at the time of the commission of the crime, the department must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. If the submitted information does not pertain to a suspect who was ten years of age or older and under seventeen years of age at the time of the commission of the crime, the department must withhold the information we have marked under section 552.130 of the Government Code and the marked e-mail address under section 552.137 of Government Code, unless the owner of the address affirmatively consents to its release, and release the remaining information.

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](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free,

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<sup>1</sup>The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

<sup>2</sup>We note this office issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including a personal e-mail address under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision.

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,

A handwritten signature in black ink, appearing to read 'Nneka Kanu', with a stylized flourish at the end.

Nneka Kanu  
Assistant Attorney General  
Open Records Division

NK/bhf

Ref: ID# 456167

Enc. Submitted documents

c: Requestor  
(w/o enclosures)