



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 16, 2012

Mr. Steven Meyer and Ms. Tiffany Bull
Arlington Police Department
Mail Stop 04-0200
P.O. Box 1065
Arlington, Texas 76004-1065

OR2012-16516

Dear Mr. Meyer and 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# 467952 (Police Dept. Reference Nos. 8597-080112 and 8914-090512).

The Arlington Police Department (the "department") received two requests for information pertaining to a specified incident. You claim the submitted 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 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. This exception encompasses information other statutes make confidential. 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). Section 58.007 of the Family Code 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.

...

(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.

Id. § 58.007(c), (e), (j). Upon review, we find the submitted information involves juveniles engaged in delinquent conduct that occurred after September 1, 1997. *See id.* § 51.03(a) (defining "delinquent conduct" for purposes of section 58.007). Thus, this information is generally confidential under section 58.007(c). We note the first requestor is either one of the juvenile suspects listed in the report or the father of this juvenile suspect. The second requestor is the mother of this juvenile suspect. Therefore, the requestors have a right to inspect juvenile law enforcement records concerning this juvenile child pursuant to section 58.007(e) of the Family Code. *See id.* § 58.007(e). Section 58.007(j) provides, however, that any personally identifiable information concerning other juvenile suspects, offenders, victims, or witnesses must be redacted. *See id.* § 58.007(j)(1). Section 58.007(j) further provides that information subject to any other exception to disclosure under the Act

or other law must also be redacted. *See id.* § 58.007(j)(2). Accordingly, we will address your claim under section 552.108 of the Government Code.

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 claiming section 552.108(a)(1) must reasonably explain how and why the release of the requested information 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 (Tex. 1977). You state the submitted information pertains to an open incident that has not received final disposition by the appropriate courts of law. However, we note the submitted information relates to a disorderly conduct offense that occurred in 2007. The statute of limitations for this offense is two years. *See Pen. Code* § 42.01(a)(7) (offense is Class B or Class C misdemeanor); *Crim. Proc. Code* arts. 12.02(a) (indictment or information on Class B misdemeanor may be presented within two years from date of commission of offense, and not afterward), .02(b) (complaint or information on Class C misdemeanor may be presented within two years from date of commission of offense, and not afterward). More than two years have elapsed since the events giving rise to the investigation in the submitted information, and you have not informed this office any criminal charges were filed within the limitations period. Further, you have not otherwise demonstrated how release of the information at issue would interfere with the detection, investigation, or prosecution of crime. Therefore, we find you have not demonstrated the applicability of section 552.108(a)(1) to the submitted information, and the department may not withhold it on that basis.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator’s or driver’s license issued by an agency of this state or another state or country is excepted from public release.¹ *See Gov’t Code* § 552.130. Accordingly, the department must withhold the driver’s license number we have marked under section 552.130 of the Government Code. As no further exceptions to disclosure have been made, the department must release the remaining information to the requestors. However, in releasing the remaining information, the department must withhold the identifying information of the other juvenile suspect, which we have marked, under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code.²

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

²We note the requestors have a special right of access to the information the department is releasing. *See Fam. Code* § 58.007(e). Because such information is confidential with respect to the general public, if the department receives another request for this information from a different requestor, the department must again seek a ruling from this office.

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,

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# 467952

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)