



August 25, 1999

Ms. Kimberley Mickelson  
Olson & Olson  
Three Allen Center  
333 Clay Street, Suite 3485  
Houston, Texas 77002

OR99-2397

Dear Ms. Mickelson:

You ask whether certain information is subject to required public disclosure under the Texas Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 126984.

The City of Friendswood (the "city"), which you represent, received a written request for all citations issued by the city's police department on February 17, 1999. You have submitted to this office a representative sample of the records at issue. You contend that the requested citations are excepted from required public disclosure pursuant to sections 552.101 and 552.108 of the Government Code.

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, *statutory*, or by judicial decision." (Emphasis added.) Section 58.007(c) of the Family Code provides in pertinent part:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child may not be disclosed to the public and shall be:

- (1) kept separate from adult files and records; and
- (2) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapter B.

To the extent that the request seeks criminal citations that were issued to a “child,” as defined by section 51.02(2) of the Family Code, those records must be withheld in their entirety pursuant to section 58.007. *See* Fam. Code § 51.02(2)(A) (defining “child” as “person who is . . . ten years of age or older and under 17 years of age”).

You seek to withhold all remaining citations pursuant to either section 552.108(a)(1), as information pertaining to a pending criminal investigation or prosecution, or section 552.108(a)(2), as information pertaining to a closed investigation or prosecution that did not result in a conviction or deferred adjudication. Please note that “basic information about an arrested person, an arrest, or a crime” may not be withheld under section 552.108. *See* Gov’t Code § 552.108(c). The remaining citations consist almost solely of “basic information” that the city is required to release in accordance with *Houston Chronicle Publishing Company v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976)<sup>1</sup>, with the following exceptions.

Although the attorney general will not ordinarily raise an exception that might apply but that the governmental body has failed to claim, *see* Open Records Decision No. 325 at 1 (1982), we will raise section 552.130 of the Government Code because the release of confidential information could impair the rights of third parties and because the improper release of confidential information constitutes a misdemeanor. *See* Government Code § 552.352. Section 552.130(a)(1) of the Government Code requires that the city withhold “information [that] relates to . . . a motor vehicle operator’s or driver’s license or permit issued by an agency of this state.” Additionally, section 552.130(a)(2) requires the withholding of information relating to “a motor vehicle title or registration issued by an agency of this state.” We have marked the portions of the citations that must be withheld from the public pursuant to section 552.130(a) of the Government Code. The city must release the remaining portions of the citations to the requestor, except as discussed above.

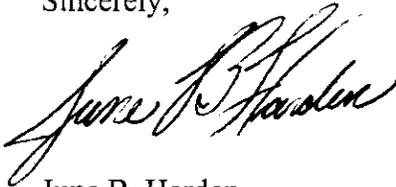
We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts

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<sup>1</sup>Section 405(c)(2)(C)(vii)(I), title 42, of the United States Code makes confidential social security numbers that are obtained or maintained pursuant to any provision of law, enacted on or after October 1, 1990. *Id.* *See* Open Records Decision No. 622 (1994). It is not apparent to us that the social security numbers at issue here were obtained or are maintained by the city pursuant to any provision of law, enacted on or after October 1, 1990. You have cited no law, nor are we aware of any law, enacted on or after October 1, 1990, that authorizes the city to obtain or maintain a social security number while issuing citations. Therefore, we have no basis for concluding that the social security numbers at issue were obtained or are maintained pursuant to such a statute and are, therefore, confidential under section 405(c)(2)(C)(vii)(I).

presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read "June B. Harden". The signature is written in a cursive style with a large initial "J" and "H".

June B. Harden  
Assistant Attorney General  
Open Records Division

JBH/RWP/nc

Ref.: ID# 126984

Encl. Submitted documents

cc: Mr. Jeff Branscome  
308 Woodstream Circle  
Friendswood, Texas 77546  
(w/o enclosures)