



December 21, 1999

Ms. Kimberley Mickelson
Olson & Olson
Attorneys at Law
333 Clay Street, Suite 3485
Houston, Texas 77002

OR99-3698

Dear Ms. Mickelson:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 130570.

The City of Friendswood (the "city"), which you represent, received a request for all municipal court records concerning a certain individual and all documentation generated by the city in regard to the handling of this request. You claim that portions of the responsive information are excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.¹

Initially, we note that it is unclear whether the requested records are maintained by the municipal court. The Public Information Act (the "Act") does not apply to records of the judiciary. Gov't Code § 552.003(B). Therefore, if the requested records are maintained solely by the court, you need not release them under the Act. Attorney General Opinion DM-166 (1992). As records of the judiciary, however, the information may be open by other sources of law. Attorney General Opinions DM-166 at 2-3 (1992) (public has general right to inspect and copy judicial records), H-826 (1976); Open Records Decision No. 25 (1974); *see Star-Telegram, Inc. v. Walker*, 834 S.W.2d 54, 57 (Tex. 1992) (documents filed with courts are generally considered public and must be released).

However, if the requested records are instead, or in addition maintained by the city, then they are subject to the Act and its exceptions. Under the Act, if the traffic citations were filed with the court, they must be released under section 552.022(a)(17). Section 552.022(a)(17)

¹The responsive documents consist of three traffic citations issued against the named individual.

requires the release of information that is contained in a public court record unless it is expressly confidential under law. *See Star-Telegram*, 834 S.W.2d at 57. You argue that motor vehicle information contained within the requested records is excepted under section 552.130 of the Government Code. Section 552.130 excepts from required public disclosure information that relates to a motor vehicle operator's or driver's license or permit issued by an agency of this state or a motor vehicle title or registration issued by an agency of this state. Therefore, the city must withhold Texas driver's license number and license plate number that appear on the requested records only if the citations have not been filed with the court.

You also argue that the social security number that appears in the records is confidential under section 552.101 of the Government Code in conjunction with the federal Social Security Act. Section 552.101 excepts from required public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Social security numbers and related records are excepted from disclosure under section 552.101 in conjunction with 1990 amendments to the federal Social Security Act, 42 U.S.C. § 405(c)(2)(C)(viii)(I), *if the social security number information was obtained or is maintained by a governmental body pursuant to any provision of law enacted on or after October 1, 1990. See Open Records Decision No. 622 (1994).* You state that the city's police department obtained the social security number pursuant to an internal department policy. Such a policy is not an enacted law contemplated by the federal provision. Thus you may not withhold the social security number pursuant to the federal provision.²

In conclusion, the city's obligations under the Act depend on whether the requested records are maintained solely by the municipal court. If the records are maintained solely by the municipal court, then the records are not subject to the Act, although they may be open under other sources of law. If the city also maintains the records, then the city must release the records under the Act, but withhold the motor vehicle information under section 552.130 of the Government Code.

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 appeal by

²We note your statement that, to the best of the city's knowledge, none of the social security information in question here is potentially subject to section 552.117 of the Government Code. Accordingly, we do not address section 552.117.

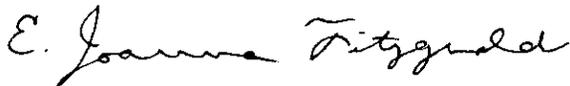
filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not 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, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, 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 appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

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,



E. Joanna Fitzgerald
Assistant Attorney General
Open Records Division

EJF\nc

Ref: ID# 130570

Encl. Submitted documents

cc: Mr. Jeff Branscomb
308 Woodstream Circle
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(w/o enclosures)