



February 4, 2000

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

OR2000-0410

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# 131933.

The City of Friendswood (the “city”), which you represent, received a request for:

[A]ny and all documentation for animals impounded and/or pickup [sic] from November 1, 1999 through November 15, 1999. This would include but not be limited to: Pictures, Citations/Warnings issued, Receipts of fees collected, investigative reports, treatment administered, Shelter Release forms, and Impoundment Logs.

You have submitted for our review information responsive to the request. You assert that some of the requested information is 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.

You state the request “seeks all municipal court documents concerning an individual.”¹ We note that the submitted documents consist of four citations which do not on their face indicate whether they are records that have been filed with a court. It is unclear whether the documents are records maintained by the municipal court, and therefore, are records of the judiciary. 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 a court, you need not release them under the Act. Attorney General Opinion DM-166 (1992).

¹Although you state the request seeks all municipal court documents concerning an individual, we note the documents submitted for our review concern four separate individuals.

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).

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

The submitted information includes Texas driver's license numbers. Section 552.130 excepts 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. We have marked the section 552.130 information that you must withhold.

The submitted information includes social security numbers which you assert are excepted from disclosure under section 552.101 of the Government Code. Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Social security numbers are confidential if they were obtained or are maintained by the city pursuant to any provision of law, enacted on or after October 1, 1990. 42 U.S.C. § 405(c)(2)(C)(vii); *see* Open Records Decision No. 622 (1994). You state that the social security numbers were obtained by the city police department pursuant to an internal policy which requests the social security number as a means to identify individuals. The police department's internal policy is not a provision of law. Thus, absent a provision of law enacted on or after October 1, 1990 that requires the city to obtain or maintain the social security numbers, you must release the social security numbers.

In summary, if the submitted information is maintained solely by a court, the information is not subject to the Act. Such information may nevertheless be open under other sources of law. If the city also maintains the information at issue, the city must release the information in its entirety, with the exception of the driver's license numbers we have marked. The social security numbers are excepted from disclosure *only if* the city obtained or maintains these numbers pursuant to a provision of law enacted on or after October 1, 1990.

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

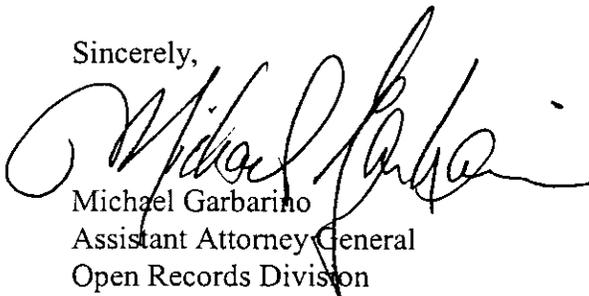
from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, 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,



Michael Garbarino
Assistant Attorney General
Open Records Division

MG/jc

Ref: ID# 131933

Encl. Submitted documents

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