OFFICE OF THE ATTORNEY GENERAL · STATE OF TEXAS
JOHN CORNYN

March 14, 2000

Mr. Gary W. Smith
City Clerk
City of Baytown
P.O. Box 424
Baytown, Texas 77522-0424

OR2000-1005

Dear Mr. Smith:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 134847.

The City of Baytown Police Department (the "department") received a request for the investigative file concerning an aggravated assault. You have provided for our review information that is responsive to the request. You assert that some of the requested information, specifically social security numbers and vehicle related information, is excepted from public disclosure under sections 552.101 and 552.130 of the Government Code. We have reviewed the submitted information and considered the exceptions you assert.

Social security numbers may be withheld in some circumstances under section 552.101 of the Government Code. A social security number or "related record" may be excepted from disclosure under section 552.101 in conjunction with the 1990 amendments to the federal Social Security Act, 42 U.S.C. § 405(c)(2)(C)(viii)(I). *See* Open Records Decision No. 622 (1994). These amendments make confidential social security numbers and related records that are obtained and maintained by a state agency or political subdivision of the state pursuant to any provision of law enacted on or after October 1, 1990. *See id.* We have no basis for concluding that any of the social security numbers in the records here are confidential under section 405(c)(2)(C)(viii)(I), and therefore excepted from public disclosure on the basis of that federal provision. We caution, however, that section 552.353 of the Open Records Act imposes criminal penalties for the release of confidential information. Prior to releasing any social security number information, you should ensure

that no such information was obtained or is maintained pursuant to any provision of law, enacted on or after October 1, 1990.

The submitted documents include information excepted under section 552.130 of the Government Code. This section governs the release and use of information obtained from motor vehicle records, and provides in relevant part as follows:

> (a) Information is excepted from [required public disclosure] if the information relates to:
>
> > (1) a motor vehicle operator's or driver's license or permit issued by an agency *of this state*; [or]
> >
> > (2) a motor vehicle title or registration issued by an agency *of this state*[.]

(emphasis added). We note you have marked for redaction a Montana driver's license number. Section 552.130 does not operate to except from disclosure the vehicle related information of other states. You must withhold the driver's license numbers, VIN numbers, and the license plate numbers we have marked pursuant to section 552.130.[1] The remaining requested information must be released.

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).

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[1]We have not marked for redaction the section 552.130 information relating to the requestor. We believe section 552.130 is intended to protect the privacy of the subject of the information. Thus, a requestor's own section 552.130 information is not excepted from disclosure. *See also* Gov't Code § 552.023 (a person has a special right of access to information that relates to that person and that is otherwise excepted from disclosure by laws intended to protect that person's privacy).

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/ch

Ref: ID# 134847

Encl. Submitted documents

cc: Ms. Carol Nettles
1502 Nolan, #163
Baytown, Texas 77520
(w/o enclosures)