



April 26, 2001

Ms. Lisa M. Salinas  
Custodian of Records  
City of Baytown  
3200 North Main Street  
Baytown, Texas 77521

OR2001-1710

Dear Ms. Salinas:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 146478.

The City of Baytown Police Department (the "department") received a request for information relating to a specific case report. You claim that a portion of the requested information is exempted from disclosure under sections 552.108 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

First, you claim the orange highlighted material is protected from disclosure under section 552.108(a)(1) and (b)(1) of the Government Code. Under section 552.108(a)(1) of the Government Code, "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime" need not be disclosed if "release of the information would interfere with the detection, investigation, or prosecution of crime." Gov't Code § 552.108(a)(1). You state that the requested information relates to a pending prosecution. Based upon this representation, we conclude that the release of the orange highlighted information would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ'g Co. 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) (court delineates law enforcement interests that are present in active cases). Therefore, the department may withhold the orange highlighted information under section 552.108(a)(1).<sup>1</sup>

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<sup>1</sup>Because we find that the orange highlighted information may be withheld under section 552.108(a)(1), we need not reach the issue of whether the same information is exempted under

You also assert that Texas driver's license numbers, a vehicle identification number, and a license plate number contained in the responsive information and highlighted in pink are excepted from disclosure under section 552.130 of the Government Code. Section 552.130 provides in relevant part:

(a) Information is excepted from the requirement of Section 552.021 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[.]

Therefore, the department must withhold the Texas driver's license numbers, vehicle identification number, and license plate number under section 552.130.

Furthermore, the requested report contains social security numbers that may be excepted from disclosure under section 552.101 of the Government Code.<sup>2</sup> 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 file are confidential under section 405(c)(2)(C)(viii)(I), and therefore excepted from public disclosure under section 552.101 on the basis of that federal provision. We caution, however, that section 552.352 of the Public Information 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 by the department pursuant to any provision of law, enacted on or after October 1, 1990.<sup>3</sup>

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section 552.108(b)(1) of the Government Code.

<sup>2</sup>Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."

<sup>3</sup>We note that the requestor appears to be related to the offender, whose social security number, driver's license number, vehicle identification number, and license plate number are included in the requested information. Section 552.023 of the Government Code provides that "[a] person or a person's authorized representative has a special right of access" to information that is protected from public disclosure based on that person's privacy interests. Both section 552.130 of the Government Code and section 405(c)(2)(C)(viii)(I), title 42 of the United States Code are designed to protect the privacy interests of individuals. Therefore, to the extent the requestor is the authorized representative of the offender, you must

In summary, the department may withhold the orange highlighted material under section 552.108(a)(1) of the Government Code. Furthermore, the department must withhold the pink highlighted information under section 552.130. Finally, the department must withhold the social security numbers contained in the submitted report under section 552.101 and the federal Social Security Act to the extent those numbers were obtained or maintained by the department pursuant to a provision of law enacted on or after October 1, 1990. The department must release the remainder of the information.

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 Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

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release the offender's social security number, driver's license number, vehicle identification number, and license plate number to the requestor.

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

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,



Nathan E. Bowden  
Assistant Attorney General  
Open Records Division

NEB/rr

Ref: ID# 146478

Encl: Submitted documents

cc: Ms. Judith Grothe  
305 Arbor  
Baytown, Texas 77520  
(w/o enclosures)