



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 27, 2007

Mr. John Ohnemiller  
Assistant City Attorney  
City of Midland  
P.O. Box 1152  
Midland, Texas 79702-1152

OR2007-15489

Dear Mr. Ohnemiller:

You ask whether certain information is subject to required public disclosure under the Public Information Act ("the Act"), chapter 552 of the Government Code. Your request was assigned ID# 299789.

The Midland Police Department (the "department") received a request for information relating to a specified arrest involving a named individual. You claim 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.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information that other statutes make confidential. Social security numbers and related records are 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), 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 social security number contained in the submitted documents falls under the federal Social Security Act because it was obtained pursuant to section 411.086 of the Government Code. That provision contemplates rules that the Texas Department of Public Safety (the "DPS") shall adopt in regard to requests for criminal history information. Section 411.086(b)(2) states that such rules "may require a person requesting criminal history information about an individual to submit to [DPS] one or more of the following: . . . (E) any known identifying number of the individual, including social security number . . . ."

Although you state that the collection of social security numbers “by police officers helps establish identities of criminals,” you do not specifically state whether the department obtained or maintains the social security number at issue here in order to request criminal history information from the DPS. Moreover, you do not inform us whether the DPS actually requires or required the department to submit the social security number at issue in order to request criminal history information. Therefore, we conclude that if the department obtained or maintains the social security number at issue in order to request criminal history information from the DPS, and if the DPS actually requires or required the department to submit the social security number with its request for criminal history information, then the social security number is confidential under section 411.086 of the Government Code in conjunction with federal law.

Section 552.130 of the Government Code excepts from public disclosure information that relates to a Texas driver’s license or motor vehicle title or registration. *See* Gov’t Code § 552.130(a)(1)-(2). We have marked Texas driver’s license and motor vehicle information that the department must withhold under section 552.130.

In summary: (1) the social security number is confidential under section 411.086 of the Government Code in conjunction with federal law if the department obtained or maintains the social security number in order to request criminal history information from the DPS and if the DPS actually requires or required the department to submit the social security number with its request for criminal history information; and (2) the department must withhold the marked Texas driver’s license and motor vehicle information under section 552.130 of the Government Code.<sup>1</sup> The rest of the submitted 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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<sup>1</sup>We note that section 552.147(b) of the Government Code authorizes a governmental body to redact a living person’s social security number from public release without the necessity of requesting a decision from this office under the Act.

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, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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); *Tex. Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

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 Texas Building and Procurement 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. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. 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,

A handwritten signature in black ink, appearing to read 'James W. Morris, III', with a long horizontal flourish extending to the right.

James W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/ma

Ref: ID# 299789

Enc: Submitted documents

c: Ms. Michelle Lowe  
2508 Oak Hill Drive  
Arlington, Texas 76006  
(w/o enclosures)