



March 5, 1999

Mr. Jay Garrett  
City Attorney  
City of Greenville  
P. O. Box 1049  
Greenville, Texas 75403-1049

OR99-0628

Dear Mr. Garrett:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 122608.

The City of Greenville (the "city") received a request for "offense service number 98001752." You contend that the file on this case of alleged assault is excepted from disclosure in its entirety pursuant to section 552.103 of the Government Code. You also contend that portions of the file are excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and have reviewed the documents at issue.

To secure the protection of section 552.103, a governmental body must demonstrate that the requested information relates to pending or reasonably anticipated litigation to which the governmental body is a party. Open Records Decision No. 588 at 1 (1991). In this instance, you have not established that the city is a party to the anticipated criminal litigation. We therefore conclude that you have not met your burden of demonstrating the applicability of section 552.103 in this instance. *See* Open Records Decision No. 469 (1987) and authorities cited therein. Accordingly, the city may not withhold any of the requested information pursuant to this exception.

You contend that the information underlined in red and green is excepted from disclosure pursuant to section 552.108. Section 552.108(a)(1) excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime." You inform us that the alleged assault case "is presently being considered for referral for prosecution." Based upon this representation, we conclude that the release of the information underlined in red and green 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).

We note, however, that information normally found on the front page of an offense report is generally considered public. *See generally* Gov't Code § 552.108(c); *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); Open Records Decision No. 127 (1976). Thus, if you have not already done so, you must release the type of information that is considered to be front page offense report information, even if this information is not actually located on the front page of the offense report. Although section 552.108(a)(1) authorizes you to withhold the information underlined in red and green, you may choose to release all or part of the information that is not otherwise confidential by law. *See* Gov't Code § 552.007.

Finally, you contend that the social security numbers contained in attachments to the offense report are excepted from disclosure under section 552.101 in conjunction with federal law. Section 552.101 excepts from disclosure information considered to be confidential by law, either constitutional, statutory, or by judicial decision. A social security number is excepted from required public 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 it 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). Thus, if the city obtained, or is maintaining, the social security numbers pursuant to any provision of law enacted on or after October 1, 1990, the city must withhold the social security number from disclosure pursuant to section 552.101.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Karen E. Hattaway  
Assistant Attorney General  
Open Records Division

KEH/ch

Ref.: ID# 122608

Enclosures: Submitted documents

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(w/o enclosures)