



November 4, 1999

Mr. Tommy Lueders
Assistant City Attorney
City of Midland
300 N. Loraine, Room 320
Post Office Box 1152
Midland, Texas 79702-1152

OR99-3123

Dear Mr. Lueders:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 129871.

The City of Midland (the "city") received a request for a police report regarding an incident which took place on October 15, 1982. You claim that part of the requested information is excepted from disclosure under section 552.108 of the Government Code. You additionally claim that the social security number is excepted pursuant to Government Code section 552.101, and that the driver's license number is excepted under section 552.130. We have considered the exceptions you claim and have reviewed the submitted information.

You assert that section 552.108 excepts the fingerprints in the incident report from public disclosure. Section 552.108, the "law enforcement exception," excepts from public disclosure information 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. Gov't Code § 552.108(a)(1). Generally, a governmental body claiming an exception under section 552.108 must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the requested information would interfere with law enforcement. *See* Gov't Code §§ 552.108(a)(1), (b)(1), .301(b)(1); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). The incident report involves a public intoxication charge that occurred on October 16, 1982. You assert that the release of certain information "could hinder the

investigation or prosecution of crime.” However, the statute of limitations for public intoxication is two years from the date of the commission of the offense. Code Crim. Proc. art. 12.02. You have not explained how or why release of the fingerprints would interfere with the investigation of an offense for which the statute of limitations has run. Thus, because you have not shown the applicability of section 552.108(a)(1), we conclude that you may not withhold the fingerprints under section 552.108(a)(1).

You also assert that the social security number and driver’s license number contained in the report are excepted from disclosure. You maintain, “Federal law makes confidential any social security number obtained or maintained by any authorized person, including a city.” 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.* Similarly, section 552.130 of the Government Code governs the release and use of information obtained from motor vehicle records. However, neither provision prevents the release of a social security number or driver’s license number to the person to whom the numbers belong. Government Code section 552.023 provides:

(a) A person or a person’s authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person’s privacy interests.

(b) A governmental body may not deny access to information to the person, or the person’s representative, to whom the information relates on the grounds that the information is considered confidential by privacy principles under this chapter but may assert as grounds for denial of access other provisions of this chapter or other law that are not intended to protect the person’s privacy interests.

Section 552.023 of the Government Code grants a special right of access to a person or a person’s authorized representative to records that contain information relating to the person that are protected from public disclosure by laws intended to protect that person’s privacy interests. The special right of access provided by section 552.023 applies only when the requested information is about the person who is requesting the information. Here, the social security number and driver’s license number are those of the requestor. Thus, the city may not withhold this information and must release the entire report to the requestor.

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,

A handwritten signature in cursive script that reads "Carla Gay Dickson".

Carla Gay Dickson
Assistant Attorney General
Open Records Division

CGD/ch

Ref: ID# 129871

Encl. Submitted documents

cc: Mr. Guadalupe Robles
2409 W. Ford Drive
Odessa, Texas 79766-8934
(w/o enclosures)