



December 3, 1999

Ms. Lisa Aguilar  
City Attorney  
City of Corpus Christi  
P.O. Box 9277  
Corpus Christi, Texas 78469-9277

OR99-3484

Dear Ms. Aguilar:

The City of Corpus Christi (the "city") asks whether certain information is subject to public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 129941.

The city received a request for information relating to the arrest of a specific individual. You state that there are no photographs responsive to the request and that you have released a copy of the Offense Report which you have submitted as Exhibit B. You state the remaining information responsive to the request is contained within the Supplementary Report marked as Exhibit C. You assert that, pursuant to section 552.305(a), you have declined to release the information submitted as Exhibit C because a person's privacy or property interest may be involved. We have reviewed the documents you have submitted and considered your assertion.

Under the Public Information Act (the "Act"), all information held by governmental bodies is open unless it falls within one of the act's specific exceptions to disclosure. The act places on the custodian of records the burden of proving that records are excepted from public disclosure. Attorney General Opinion H-436 (1974). However, in cases such as this one, where a third party's privacy or property interest are implicated, the governmental body may rely on the third party to establish that the information should be withheld under applicable exceptions intended to protect those interests. Gov't Code § 552.305, Open Records Decision No. 542 (1990).

If, indeed, the city notified the third parties whose privacy interests are involved pursuant to section 552.305(d), more than sufficient time has elapsed for the third parties to provide this office with any explanation as to why the requested documents should not be released. The act does not require that this office raise and consider exceptions that have not been raised. Consequently, because neither the city nor the third parties have raised any exceptions to protect the requested information from disclosure, we have no basis for applying any exceptions to the required public disclosure of this information. *See* Open Records Decision No. 552 (1990). Therefore, except as noted below, you should release the information at this time.

We note that social security numbers may be withheld in some circumstances under section 552.101 of the Government Code. Section 552.101 excepts from disclosure information made confidential by statutes. 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.* There is no basis for concluding that the social security numbers are confidential under section 405(c)(2)(C)(viii)(I), and therefore excepted from public disclosure under section 552.101 of the Act. However, it should be noted that section 552.353 of the Act does impose criminal penalties for the release of confidential information. Therefore, prior to releasing any social security number information, you should determine if such information was obtained or is maintained by the city in accordance with any provision of law enacted on or after October 1, 1990.

In addition, section 552.130 is applicable to the release of information pertaining to motor vehicle records. 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[.]

We have marked the information that is excepted from disclosure under section 552.130 and that must be redacted prior to release of the remaining 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.

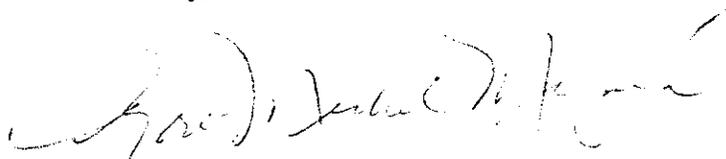
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge 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 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,



Rose-Michel Munguía  
Assistant Attorney General  
Open Records Division

RMM/jc

Ref.: 129941

Encl.: Submitted documents

cc: Ms. Myrtle Ford  
12831 Roandale  
Houston, Texas 77048  
(w/o enclosures)