



December 3, 1999

Ms. Kimberly Mickelson  
Olson & Olson  
Three Allen Center, Suite 3485  
333 Clay Street  
Houston, Texas 77002

OR99-3485

Dear Ms. Mickelson:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 130498.

The City of Friendswood (the "city") received a request for information regarding "any and all documentation of reports concerning Animal Control issues from September 16, 1999 through September 30, 1999." Other than basic offense report information, you assert that the responsive information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

We note that the city received the request for information on October 1, 1999 and that the city's request for an opinion from this office was postmarked October 18, 1999. Thus, the city failed to request an open records decision from this office within ten business days as required under Government Code section 552.301. This failure to timely request a decision results in the legal presumption that the requested information is open to the public. Gov't Code § 552.302. Because the request for a decision was not timely received, the requested information is presumed to be public information. Gov't Code § 552.302; *see Hancock v. State Bd. of Ins.*, 797 S.W.2d 379 (Tex. App.--Austin 1990, no writ). The presumption of openness can be overcome only by a compelling demonstration that the information must not be released, *e.g.*, where it is made confidential by other law or where third party interests are at issue. Open Record Decision No. 150 (1977). The application of sections 552.101 and 552.130 of the Government Code is a compelling reason.

Social security numbers are confidential if they were obtained or are maintained by the city pursuant to any provision of law, enacted on or after October 1, 1990. 42 U.S.C. § 405(c)(2)(C)(vii); *see* Open Records Decision No. 622 (1994). You state that the social security numbers in the reports were obtained by the police department pursuant to an internal policy which requests the social security number as a means to identify individuals. The police department's internal policy is not a provision of law. Thus, absent a provision of law enacted on or after October 1, 1990 that requires the city to obtain or maintain the social security numbers, you must release the social security numbers. Section 552.130 excepts information that relates to a motor vehicle operator's or driver's license or permit issued by an agency of this state or a motor vehicle title or registration issued by an agency of this state. We have marked the section 552.130 information that you must withhold. The remaining requested 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).

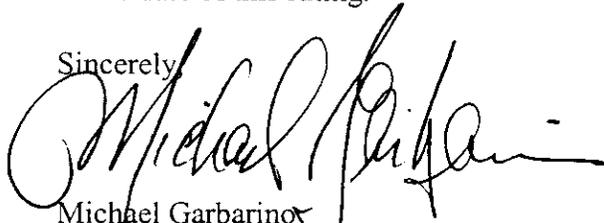
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following 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,



Michael Garbarino  
Assistant Attorney General  
Open Records Division

MG/jc

Ref: ID# 130498

Encl. Submitted documents

cc: Mr. Jeff Branscome  
308 Woodstream Circle  
Friendswood, TX 77546  
(w/o enclosures)