



January 4, 2002

Mr. Joe Jackson  
Assistant City Attorney  
City of College Station  
P.O. Box 9960  
College Station, Texas 77843

OR2002-0053

Dear Mr. Jackson:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 156807.

The City of College Station Police Department (the "department") received a request for the arrest report relating to service number 01-010467. You state that most of the responsive information is being made available to the requestor. You claim that the remaining information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you raise and have reviewed the information you submitted.

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This exception protects information that another statute makes confidential. A social security number may be confidential 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 a governmental body obtained or maintains the social security number pursuant to any provision of law enacted on or after October 1, 1990. *See* Open Records Decision No. 622 at 2-4 (1994). You assert that City Ordinance No. 2436, adopted February 24, 2000, constitutes a provision of law enacted on or after October 1, 1990, for purposes of the federal statute.<sup>1</sup> We have considered your arguments and reviewed the documentation you submitted as Exhibits E and F. We find, however, that Ordinance No. 2436 is not specifically applicable to social security numbers. Furthermore, a city ordinance cannot operate to make information confidential that is subject to chapter 552 of the Government Code. *See* Open Records Decision No. 594 at 3 (1991) (citing *City of Brookside Village v.*

---

<sup>1</sup>You explain that Ordinance No. 2436 relates to the retention and disposition of city records. You contend that "[c]onsequently, the City currently 'maintains' and/or retains all City records pursuant to a provision of law enacted on or after October 1, 1990."

*Comeau*, 633 S.W.2d 790 (Tex. 1982), *cert. denied*, 459 U.S. 1087 (1982)); *see also Industrial Found. v. Texas Ind. Accident Bd.*, 540 S.W.2d 668, 677 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977) (absent specific legislative authority, governmental body may not bring information within section 552.101 by promulgating rule designating information as confidential). Accordingly, Ordinance No. 2436 does not constitute a provision of law enacted on or after October 1, 1990, for purposes of section 405(c)(2)(C)(viii)(I) of the Social Security Act. You have cited no other law, nor are we aware of any other law, that authorizes the department to obtain or maintain a social security number. It therefore is not apparent to this office that the department obtained or maintains the social security number at issue here pursuant to any provision of law enacted on or after October 1, 1990. Thus, we have no basis for concluding that this social security number was obtained or is maintained pursuant to such a law and is therefore confidential under section 405(c)(2)(C)(viii)(I) of the federal law. We caution the department, however, that section 552.352 of the Government Code imposes criminal penalties for the release of confidential information. Therefore, prior to releasing this social security number, the department should ensure that it was not obtained and is not maintained pursuant to any provision of law enacted on or after October 1, 1990.

Section 552.130 of the Government Code is applicable to motor vehicle record information. Section 552.130 provides in relevant part:

(a) Information is excepted from [required public disclosure] 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[.]

Gov't Code § 552.130(a)(1)-(2). Texas driver's license, license plate, and vehicle identification numbers must be withheld from public disclosure in accordance with section 552.130.

We note, however, that the requestor appears to be a parent of the individual who is the subject of the submitted records. Under section 552.023(a) of the Government Code, "[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." Therefore, if the requestor is the authorized representative of the individual to whom the submitted social security and driver's license numbers pertain, then the requestor has a special right of access to these social security and driver's license numbers under section 552.023. Furthermore, if the requestor has an ownership interest in the vehicle to which the license plate and vehicle identification numbers pertain, then she also has a right of access to the license plate and vehicle identification numbers under section 552.023. Any

information to which the requestor has a right of access under section 552.023 may not be withheld from her under section 552.101 in conjunction with section 405(c)(2)(C)(viii)(I) of the federal Social Security Act or section 552.130. *See also* Open Records Decision No. 481 at 4 (1987) (privacy theories are not implicated when an individual asks a governmental body to provide him with information concerning himself).

In summary, the social security number in question may be confidential under section 552.101 of the Government Code in conjunction with federal law. Texas driver's license, license plate, and vehicle identification numbers must be withheld from the public in accordance with section 552.130. The requestor may have a special right of access to these social security, driver's license, license plate, and vehicle identification numbers, however, under section 552.023.

You also request that this office issue a previous determination allowing the department to withhold vehicle identification numbers issued by an agency of this state under section 552.130 of the Government Code. Therefore, as per your request, this letter ruling shall serve as a previous determination under section 552.301(a) that Texas vehicle identification numbers are excepted from public disclosure under section 552.130. *See* Gov't Code § 552.301(a), (f); *see also* Open Records Decision No. 673 (2001). We note, however, that section 552.130 protects the privacy of the individual to whom the information relates. Therefore, a person's section 552.130 information must be released to that person or that person's authorized representative. *See* Gov't Code § 552.023 (person or person's authorized representative has a special right of access to information that is protected by laws intended to protect a person's privacy). Furthermore, section 552.130 does not except from disclosure information that relates to a deceased person.

This previous determination applies only to Texas vehicle identification numbers requested of the College Station Police Department. *See* Open Records Decision No. 673 at 7 (2001). Moreover, so long as the elements of law, fact, and circumstances do not change so as to no longer support the findings set forth above, the College Station Police Department need not ask for a decision from this office again with respect to this type of information requested of the College Station Police Department. *See id.*

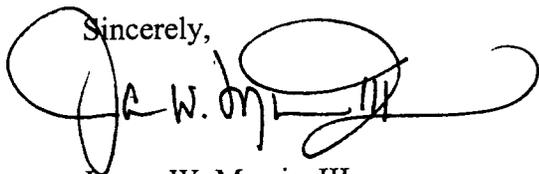
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on 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).

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 of 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. 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 "J.W. Morris III", written over a horizontal line.

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

JWM/sdk

Ref: ID# 156807

Enc: Submitted documents

c: Ms. Gwyn Marie Reynolds  
20510 Timber Ridge Drive  
Magnolia, Texas 77355  
(w/o enclosures)