



February 13, 2002

Mr. Leonard V. Schneider  
Attorney for the City of Wallis  
Ross, Banks, May, Cron & Cavin  
2 Riverway, Suite 700  
Houston, Texas 77056-1918

OR2002-0688

Dear Mr. Schneider:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 158606.

The City of Wallis (the "city"), which you represent, received a request for four categories of information in connection with the requestor's appeal of a traffic citation conviction, including 1) copies of traffic citations issued by the city's police department on September 25, 2001, 2) copies of anything presented in court on November 16, 2001, 3) the city attorney's name, and 4) the badge numbers and full names of 2 officers in court. You have released some of the requested information to the requestor, and claim that a portion of the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

You acknowledge in your letter dated December 5, 2001, that the city is asking for a ruling from this office to withhold from disclosure only a portion of the information responsive to request item 1. You do not address request the city's response to request items 2 through 4. To the extent that the city holds information responsive to those items, we assume that you have released the information to the requestor. *See* Gov't Code §§ 552.301, .302. If not, you must do so at this time. *See* Gov't Code § 552.221(a); Open Records Decision No. 665 at 4 (2000) (concerning prompt production of requested information).

Next, we note that pursuant to section 552.305 of the Government Code, you have notified the third party recipients of traffic citations whose social security numbers appear in the submitted information responsive to the requestor's first request category. *See* Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released). An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section

552.305(d) to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this decision, we have received no third party comments explaining why the submitted information should not be released. Thus, we will consider your arguments with respect to the submitted information responsive to the first request category.

Section 552.101 excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Social security numbers may be withheld in some circumstances under section 552.101 of the Government Code. 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.* You claim that the third party social security numbers in the submitted information fall under the federal Social Security Act because they were obtained pursuant to section 411.086 of the Government Code. Section 411.086 was effective September 1, 1993. The provision contemplates rules that the Department of Public Safety ("DPS") shall adopt in regard to requests for criminal history information. Section 411.086(b)(2) states that such rules "may require a person requesting criminal history information about an individual to submit to [DPS] one or more of the following: . . . (E) any known identifying number of the individual, including social security number . . .".

You state that the collected social security numbers are used by the city and its police department "as means to ensure the correct identification of an individual's criminal history through DPS," and to locate persons who fail to appear for court. However, you do not specifically state whether the city obtained or maintained the social security numbers at issue in order to request criminal history information from DPS, or whether DPS actually requires or required the city to submit the social security numbers at issue in order to request criminal history information. Moreover, you do not cite a specific provision of law in connection with use of the social security numbers to identify persons who fail to appear for court. We find that, if the city obtained or maintains the social security numbers in order to request criminal history information from DPS, and if DPS actually requires or required the city to submit the social security number with its request for criminal history information, then the third party social security numbers are confidential under section 552.101 of the Government Code in conjunction with federal law.

Finally, the submitted information contains driver's license and vehicle license plate numbers. 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[.]

You must withhold the Texas driver's license numbers and license plate numbers we have marked under section 552.130.

In summary, the city must withhold the marked driver's license and vehicle license plate numbers contained in the submitted information under section 552.130 of the Government Code. Third party social security numbers in the submitted information may be confidential under section 552.101 in conjunction with federal law. To the extent that the city holds information responsive to categories two, three, and four of the request, the city must release the information to the requestor pursuant to section 552.302.

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).

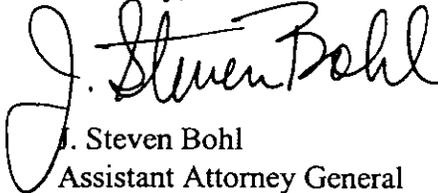
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following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

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 at 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,



J. Steven Bohl  
Assistant Attorney General  
Open Records Division

JSB/sdk

Ref: ID# 158606

Enc: Submitted documents

c: Ms. Leola King Holman  
P.O. Box 273  
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(w/o enclosures)