



THE ATTORNEY GENERAL
OF TEXAS

JIM MATTOX
ATTORNEY GENERAL

September 28, 1990

Mr. Lias B. "Bubba" Steen
Executive Director
State Purchasing and General
Services Commission
P.O. Box 13047, Capitol Station
Austin, Texas 78711-3047

OR90-454

Dear Mr. Steen:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 10487.

The State Purchasing and General Services Commission (the commission) received an open records request for records pertaining to the commission's 1981 investigation of certain allegations against the chief of the Capitol Security Police. Because the requested records relate to a current investigation of the police chief, you inquire whether any portions of the 1981 investigation file may presently be withheld from the public during the pendency of the current investigation.

Under the Open Records Act, all information held by governmental bodies is open unless the information 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. The act does not require this office to raise and consider exceptions that you have not raised.

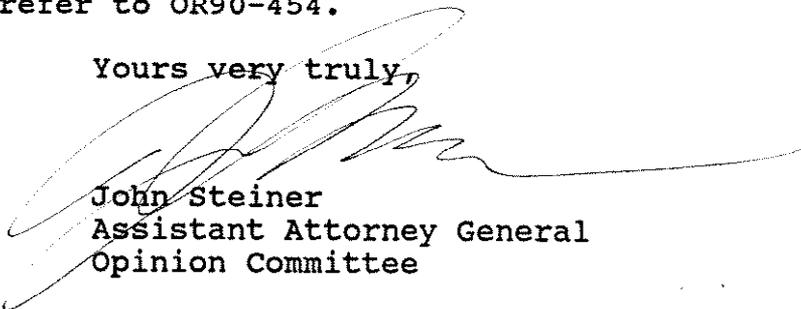
The only exceptions to required public disclosure that you raise with regard to the 1981 investigative file are the common-law privacy aspects of sections 3(a)(1) and 3(a)(2). The test for section 3(a)(2) protection is the same as that for information protected by common-law privacy under section 3(a)(1): to be protected from required disclosure the information must contain highly intimate or embarrassing facts about a person's private affairs such that its release would be highly objectionable to a reasonable person and the

information must be of no legitimate concern to the public. Hubert v. Harte-Hanks Texas Newspapers, Inc., 652 S.W.2d 546 (Tex. App. - Austin, 1983, writ ref'd n.r.e.).

After reviewing the documents at issue, this office has determined that only seven small portions of the file meet this test. See, e.g. Open Records Decision No. 400 (1983) (copy enclosed). We have marked those portions of the documents that you must withhold pursuant to sections 3(a)(1) and 3(a)(2). We note, however, that although you failed to raise section 3(a)(17), which protects the home address and telephone numbers of peace officers, this type of information is deemed confidential by law and must, therefore, also be withheld. See Open Records Decision No. 532 (1989). Because you raise none of the act's other exceptions to required public disclosure, the remaining information must be released at this time.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR90-454.

Yours very truly,



John Steiner
Assistant Attorney General
Opinion Committee

JS/RWP/le

Ref.: ID# 10487

Enclosures: Open Records Decision No. 400
Marked documents

cc: Bruce Hight
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