



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

December 28, 1995

Mr. Pete Wassdorf  
Deputy General Counsel  
Office of the Governor  
P.O. Box 12428  
Austin, Texas 78711

OR95-1604

Dear Mr. Wassdorf:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 33326.

The Office of the Governor (the "governor") received an open records request for a copy of the personnel file of an employee. You state that the governor plans to release a copy of the file to the requestor with the employee's home address, home telephone number, social security number, and driver's license number redacted. You contend that these portions of the employee's file are excepted from required public disclosure by section 552.101 and constitutional privacy. You have submitted a marked copy of the employee's personnel file for our review. Also enclosed for our review is a copy of a memorandum dated November 1, 1993, by which the employee requested that "no personal information, such as my home address, phone number, social security number, or driver's license number be released."

Initially, we address disclosure of the employee's home address and home telephone number. Section 552.024 provides a procedure whereby an employee or official of a governmental body may choose to prohibit the disclosure of his home address and telephone number. Section 552.117(1) excepts from disclosure the home addresses and telephone numbers of all peace officers, as defined by article 2.12 of the Code of Criminal Procedure; of security officers commissioned under Education Code section 51.212; and the home addresses and telephone numbers of all current or former officials or employees of a governmental body who request that this information be kept

confidential under section 552.024.<sup>1</sup> The information submitted for our review reflects that the employee requested that his home address and telephone number be kept confidential in November 1993. Therefore, section 552.117 requires the governor to withhold any mention of the employee's home address or telephone number since he requested that this information be kept confidential in accordance with section 552.024.

Regarding the employee's social security number, we note that federal law may prohibit disclosure of the social security number found on the employee's application for employment. A social security number is excepted from required public disclosure under section 552.101 of the act in conjunction with the 1990 amendments to the federal Social Security Act, 42 U.S.C. § 405(c)(2)(C)(vii), if it was obtained or is maintained by a governmental body pursuant to any provision of law enacted on or after October 1, 1990. *See Open Records Decision No. 622 (1994)*; *see also* 42 U.S.C. § 405(c)(2)(C)(v) (governing release of social security number collected in connection with administration of any general public assistance, driver's license or motor vehicle registration law). Based on the information you have provided, we are unable to determine whether the social security numbers are confidential under this federal statute. We note, however, that section 552.352 of the Open Records Act imposes criminal penalties for the release of confidential information. Therefore, prior to releasing any social security number information, the governor should ensure that the information is not confidential under this federal statute.

Finally, we address the privacy issue related to withholding from required disclosure the employee's driver's license number and social security number under section 552.101 of the Government Code. Section 552.101 excepts from required public disclosure information considered to be confidential by law, including information made confidential by judicial decision. This exception applies to information made confidential by the common-law right to privacy. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Information may be withheld under section 552.101 in conjunction with the common-law right to privacy if the information contains highly intimate or embarrassing facts about a person's private affairs such that its release would be highly objectionable to a reasonable person and if the information is of no legitimate concern to the public. *See id.* at 685; Open Records Decision No. 328 (1982). This office has determined that driver's license numbers and social security numbers are not information of a "highly intimate" nature. Open Records Decision No. 622 (1994) (social security numbers), 455 (1987) (driver's license numbers).

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<sup>1</sup>Section 552.117(2) of the Government Code provides that "the home address, home telephone number, or social security number of an employee of the Texas Department of Criminal Justice, or the home or employment address or telephone number, or social security number of a family member of the employee" is excepted from required public disclosure. The employee in this case works for the Office of the Governor, not the Texas Department of Criminal Justice.

Section 552.101 also protects constitutional privacy as well as common-law privacy. *Industrial Found.*, 540 S.W.2d at 678-80. This constitutional right to privacy protects two related interests: (1) the individual interest in independence in making certain kinds of important decisions, and (2) the individual interest in avoiding disclosure of personal matters. See Open Records Decision No. 478 (1987) at 4. The first interest applies to the traditional "zones of privacy." These "zones" include matters related to marriage, procreation, contraception, family relationships, and child rearing and education. See Open Records Decision No. 447 (1986) at 4. The second interest protects information by employing a balancing test that weighs the privacy interest against the public interest. Open Records Decision No. 478 (1987) at 4. It protects against "invasions of privacy involving the most intimate aspects of human affairs." Open Records Decision No. 455 (1987) at 5 (citing *Ramie v. City of Hedwig Village*, 765 F.2d 490, 492 (5th Cir. 1985)). We believe that driver's license numbers and social security numbers are not information which fall within any of the "zones of privacy" or involve the most intimate aspects of human affairs.

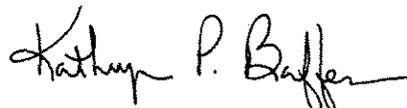
By your letter, you contend that because of "specific safety concerns," portions of the information requested should be withheld from disclosure. This office addressed the types of "exceptional circumstances" which may be considered when determining that information, that is otherwise public information, may be withheld.<sup>2</sup> See Open Records Decision No. 169 (1977) at 6-8 (copy enclosed). In reviewing the documents you submit, we note that the employee states in his request filed with personnel to keep his home address, home telephone number, social security number, and driver's license number confidential, that he has been a police officer for fourteen years, the state director of Crime Stoppers, and is now the Team Leader for Gang-related Crime. Additionally, he states that his "past and present employment and official duties has involved the arrest, prosecution, and conviction of numerous individuals and organizations involved in serious violent crimes." Though you contend *specific* safety concerns exist related to the release of the information you seek to withhold, you have provided only general claims regarding the employee's concerns. Unless you can show this office by a letter explaining that exceptional circumstances exist in accordance with Open Records Decision No. 169 (1977), the employee's driver's license number must be released, and, unless the employee's social security number was collected pursuant to law in accordance with the 1990 amendments to the federal Social Security Act, the employee's social security number must be released.

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<sup>2</sup>Exceptional circumstances which might exist are imminent threats of physical danger as opposed to a generalized and speculative fear of harassment or retribution.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have any questions about this ruling, please contact our office.

Yours very truly,



Kathryn P. Baffes  
Assistant Attorney General  
Open Records Division

KPB/LRD/rho

Ref: ID# 33326

Enclosures: Submitted documents  
Open Records Decision No. 169 (1977)

cc: Mr. Robert Preston  
1190 Iowa Street  
Beaumont, Texas 77705-5711  
(w/o enclosures)