



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 30, 2005

Ms. Pamela Smith
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773

OR2005-11755

Dear Ms. Smith:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 239264.

The Department of Public Safety (the "department") received a request for information regarding a named sex offender. You claim that some 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.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes such as Chapter 62 of the Code of Criminal Procedure. Article 62.02(b) of the Code of Criminal Procedure requires a sex offender registrant to provide the department with certain enumerated categories of information, including the person's full name; each alias; date of birth; sex; race; height; weight; eye color; hair color; social security number; driver's license number; shoe size; home address; a photograph of the person; a complete set of the person's fingerprints; the type of offense the person was convicted of; the age of the victim; the date of the conviction; the punishment received; an indication as to whether the person is discharged, paroled, or released on juvenile probation, community supervision, or mandatory supervision; an indication of each license, as defined by Article 62.08(g), that is held or sought by the person; an indication as to whether the person is or will be employed, carrying on a vocation, or a

student; and any other information required by the department. *See* Crim. Proc. Code art. 62.02(b). This information is public information with the exception of the person's social security number, driver's license number, telephone number, all information required by the department outside of the enumerated categories of information, and any information that would identify the victim of the offense for which the person is subject to registration. *See* Crim. Proc. Code art. 62.08(b).

Based on your representations and our review, we conclude that most of the highlighted information in the submitted documents is not subject to public disclosure under section 552.101 in conjunction with article 62.08(b) of the Code of Criminal Procedure. However, we note that you have highlighted information which indicates that the sex offender is employed. This information, which we have marked, is public information that must be released under article 62.08(b). We also note that the submitted information includes the sex offender's telephone numbers. These telephone numbers, which we have marked, are not subject to disclosure pursuant to article 62.08(b)(1) and must be withheld under section 552.101. Therefore, with the exception of the employment information we have marked, the department must withhold the highlighted information under section 552.101 in conjunction with article 62.08(b). The department must also withhold the telephone numbers we have marked under section 552.101 in conjunction with article 62.08(b)(1). The employment information we have marked, along with the remainder of the submitted 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, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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 Dep't of Pub. 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 Office of the Attorney General 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,



James A. Person III
Assistant Attorney General
Open Records Division

JAP/sdk

Ref: ID# 239264

Enc. Submitted documents

c: Ms. Sharon Cottrell
2412 Oakridge Court
Bedford, Texas 76021
(w/o enclosures)