



ATTORNEY GENERAL OF TEXAS  
G R E G A B B O T T

April 18, 2007

Mr. Peter Gruning  
Duvall, Gruning & Dietz, P.L.L.C.  
112 North LBJ Drive  
San Marcos, Texas 78666

OR2007-04359

Dear Mr. Gruning:

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# 277053.

The Lockhart Police Department (the "department"), which you represent, received a request for "the citizen complaint filed against [a named individual in 2007] regarding inappropriate comments." You claim that the submitted information is excepted from disclosure under sections 552.101, 552.117, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note that the Texas Comptroller of Public Accounts currently has a lawsuit pending against the Office of the Attorney General that pertains, in part, to individuals' dates of birth: *Tex. Comptroller of Public Accounts v. Abbott*, No. D-1-GN-001120 (126<sup>th</sup> Dist. Ct., Travis County, Tex.). Accordingly, we do not address your arguments with regard to the birth dates that the department seeks to withhold. We will allow the trial court to determine whether that type of information must be released to the public.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses the doctrine of common-law privacy. Common-law privacy protects information if (1) the information contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. *Indus. Found. v.*

*Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). The type of information considered intimate and embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. 540 S.W.2d at 683. However, we note that this office has found that the public has a legitimate interest in information relating to employees of governmental bodies and their employment qualifications and job performance. See Open Records Decision Nos. 562 at 10 (1990), 542 at 5 (1990); see also Open Records Decision No. 423 at 2 (1984) (scope of public employee privacy is narrow). Furthermore, this office has stated on several occasions that an individual's home address and telephone number are generally not protected by common-law privacy. See Open Records Decision Nos. 554 at 3 (1990) (disclosure of a person's home address and telephone number is not an invasion of privacy), 455 at 7 (1987) (home addresses and telephone numbers do not qualify as "intimate aspects of human affairs"). Accordingly, upon review, we find that none of the submitted information is protected by common-law privacy. Therefore, the department may not withhold any of the submitted information under section 552.101 of the Government Code on that basis.

Section 552.117(a)(1) of the Government Code excepts from disclosure the home addresses and telephone numbers, social security numbers, and family member information of current or former officials or employees of a governmental body who request that this information be kept confidential under section 552.024. Whether a particular piece of information is protected by section 552.117 must be determined at the time the request for it is made. See Open Records Decision No. 530 at 5 (1989). You state the individual at issue in the request, a former employee of the department, made a request for confidentiality under section 552.024 prior to the date on which the request for this information was made. Accordingly, we have marked the information the department may withhold under section 552.117.

Section 552.130 of the Government Code excepts from disclosure information that "relates to . . . a motor vehicle operator's or driver's license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state." Gov't Code § 552.130. The department must withhold the Texas driver's license number you have marked in the submitted information.

Section 552.147 of the Government Code provides that "[t]he social security number of a living person is excepted from" required public disclosure under the Act. Gov't Code § 552.147. Therefore, the department may withhold the social security number you have marked under section 552.147 of the Government Code.<sup>1</sup>

---

<sup>1</sup>We note that section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

In summary, the department must withhold the information we have marked under section 552.117 of the Government Code and the information you have marked under section 552.130 of the Government Code. The department may withhold the information you have marked under section 552.147 of the Government Code. The remaining 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).

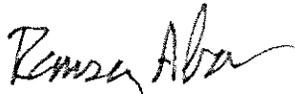
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records 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,



Ramsey A. Abarca  
Assistant Attorney General  
Open Records Division

RAA/eb

Ref: ID# 277053

Enc. Submitted documents

c: Ms. Molly Bloom  
Austin American-Statesman  
109 East Hopkins Street, Suite 203  
San Marcos, Texas 78668  
(w/o enclosures)