



THE ATTORNEY GENERAL
OF TEXAS

JIM MATTOX
ATTORNEY GENERAL

November 1, 1990

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

OR90-523

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# 10732.

The State Purchasing and General Services Commission (the commission) received an open records request for the report completed by Ben C. Nix and Associates regarding certain allegations against former Capitol Police Chief Robert S. Williams. You contend that the report comes under the protection of sections 3(a)(1) and 3(a)(2) of the Open Records Act.

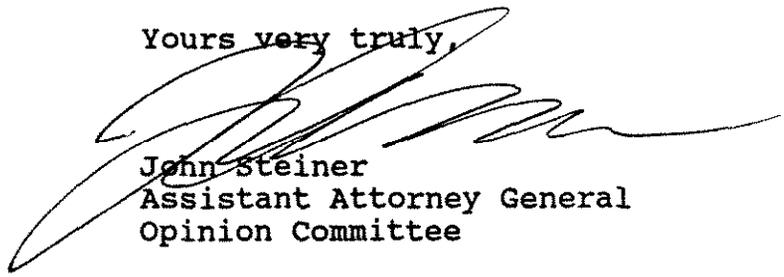
The test for section 3(a)(2) protection is the same as that for information protected by common-law privacy under section 3(a)(1): to be protected from required disclosure the information must contain highly intimate or embarrassing facts about a person's private affairs such that its release would be 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 report, this office has determined that only a few small portions of the file regarding a commission employee meet this test. We have marked those portions of the documents that you must withhold pursuant to sections 3(a)(1) and 3(a)(2). Because you raise none of the act's other exceptions to required public disclosure, the remaining information must be released to the requestor at this time.

You also ask whether the information that comes under the protection of sections 3(a)(1) and 3(a)(2) may be released either to the former police chief pursuant to section 3B of the act or to "individual members or committees of the Legislature of the State of Texas . . . to be used for legislative purposes." See V.T.C.S. art. 6252-17a, § 14(c). The protected information does not pertain to the former police chief; he therefore does not have a right of access to that information pursuant to section 3B. See generally Open Records Decision No. 565 (1990) at 2-3. Nor do members of the Texas Legislature have a special right of access to information protected from public disclosure pursuant to section 3(a)(1). Open Records Decision No. 358 (1983) (copy enclosed). This information may not be released to anyone outside the commission other than the individual to whom it pertains.

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 OR90-523.

Yours very truly,



John Steiner
Assistant Attorney General
Opinion Committee

JS/RWP/le

Ref.: ID# 10732

Enclosures: Open Records Decision No. 358
Marked documents

cc: Bruce Hight
Austin American-Statesman
P.O. Box 670
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