



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 14, 2003

Ms. Donna L. Clarke  
Assistant District Attorney  
Lubbock County  
P.O. Box 10536  
Lubbock, Texas 79408-3536

OR2003-7319

Dear Ms. Clarke:

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# 189409.

The County of Lubbock (the "County") received a request for "an address and phone number" of two named former employees. You assert the requested information is excepted from disclosure under section 552.117 of the Government Code. We reviewed the information you submitted and considered the exception you claim.

Initially, we note that an individual who appears to be employed by the Texas Juvenile Probation Commission (the "Commission") submitted the request for information to the County. Therefore, we consider the applicability of the intergovernmental transfer doctrine to this request for information. We ruled in Open Records Decision No. 661 (1999) that whether a governmental entity may release information to another governmental entity is not a question under chapter 552 of the Government Code as the Act is concerned with the required release of information to the *public*. Gov't Code §§ 552.001, .002, .021; *see* Attorney General Opinions, H-683 (1975), H-242 (1974), M-713 (1970); Open Records Decision No. 655 (1997). For many years, this office has recognized that it is the public policy of this state that governmental bodies should cooperate with each other in the interest of the efficient and economical administration of statutory duties. *See, e. g.*, Attorney General Opinion H-836 (1976); Open Records Decision No. 655 (1997). *But see* Attorney General Opinions DM-353 at 4 n. 6 (1995) (interagency transfer prohibited where

confidentiality statute enumerates specific entities to which release of confidential information is authorized and where receiving agency is not among statute's enumerated entities), JM-590 (1986) (same); Open Records Decision No. 655 (1997) (same), 650 (1996) (transfer of confidential information to federal agency impermissible unless federal law requires its disclosure). In adherence to this policy, this office has acknowledged that information may be transferred between governmental bodies without violating its confidential character on the basis of a recognized need to maintain an unrestricted flow of information between governmental bodies. *See* Attorney General Opinions H-836 (1976), H-242 (1974), M-713 (1970); Open Records Decision Nos. 655 (1997), 414 (1984). Accordingly, the County has the discretion to release the requested information to the Commission under the intergovernmental transfer doctrine if the information is excepted under section 552.117 of the Government Code. *See also* Open Records Decision No. 674 (2001). However, should you decline to exercise that discretion, you must nonetheless adhere to the following decision regarding the applicability of your claimed exception to the requested information.

Next, we address your assertion that section 552.117 excepts the requested information from required public disclosure. Section 552.117(a)(1) 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 timely request that this information be kept confidential under section 552.024 of the Government Code.<sup>1</sup> *See* Gov't Code § 552.117(a)(1). Whether a particular piece of information is public must be determined at the time the request for it is made. *See* Open Records Decision No. 530 at 5 (1989). The information at issue may not be withheld from disclosure under section 552.117(a)(1) if the employees did not request confidentiality for this information in accordance with section 552.024 or if the request for confidentiality under section 552.024 was not made until after the County received the request for information. You provide supporting documentation showing that the former employees whose personal information is at issue made timely elections to keep such information confidential. Accordingly, we conclude the County must withhold the home addresses and phone numbers of these employees under section 552.117(a)(1) of the Government Code.

In summary, the County has the discretion to release the requested information under the intergovernmental transfer doctrine if the requestor seeks the information in an official capacity as an employee of the Commission. Should the County choose not to exercise its discretion in this manner, then the County must withhold the home addresses and phone numbers of the former employees at issue under subsection 552.117(a)(1) of the Government Code.

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<sup>1</sup>In Senate Bill 1388, which became effective on June 20, 2003, the Seventy-eighth Legislature amended section 552.117 of the Government Code by adding "(a)" to the relevant language of this provision. *See* Act of May 30, 2003, 78<sup>th</sup> Leg., R.S., S.B. 1388, § 1 (to be codified as an amendment to Gov't Code § 552.117).

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, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, 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 Texas Building and Procurement Commission 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. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code

§ 552.325. 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,

A handwritten signature in cursive script that reads "Christen Sorrell".

Christen Sorrell  
Assistant Attorney General  
Open Records Division

CHS/seg

Ref: ID# 189409

Enc: Submitted documents

c: Mr. Jaime Coronado  
Texas Juvenile Probation Commission  
P.O. Box 13547  
Austin, Texas 78711  
(w/o enclosures)