ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 19, 2003

Ms. Karen Rabon
Assistant Attorney General
Public Information Coordinator
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

OR2003-8305

Dear Ms. Rabon:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 192053.

The Office of the Attorney General (the "OAG") received a request for information relating to a certain employee. Specifically, the requestor seeks the following information: the employee's official appointment letter, her oath of office, her law license number, her social security number, and a copy of a certain contract between the employee and another individual. You state that information responsive to items 1, 2, and 3 of the request do not exist. You also state that you have withheld information responsive to the request for the contract in accordance with a previous determination issued by this office. *See* Open Records Letter No. 2000-2465 (2000) (stating that attorney general need not seek open records decision from this office for future requests for information concerning Title IV-D services provided under Fam. Code ch. 231); *see also* Open Records Decision No. 673 (2001) (establishing criteria for previous determinations). You claim, however, that the employee's social security number is excepted from disclosure under section 552.117 of the Government Code. We have considered the exception you claim and have reviewed the information at issue.

Initially, we note, and you acknowledge, that the OAG failed to seek an open records decision from this office within the statutory ten business day period. *See* Gov't Code § 552.301(a). The OAG also failed to submit the requested information to this office within

the statutory fifteen business day period. *See id.* § 552.301(e)(1)(D). The OAG's failure to comply with the procedural requirements of the Public Information Act results in the presumption that the requested information is public. In order to overcome this presumption of openness, the OAG must provide compelling reasons why the information should not be disclosed. *Hancock*, 797 S.W.2d at 381. Since the applicability of section 552.117 provides such a compelling reason, we will address the OAG's arguments against disclosure.

Section 552.117(a)(1) of the Government Code provides that information is excepted from disclosure if it relates to a current or former employee's home address, home telephone number, social security number, or reveals whether the employee has family members. The OAG is required to withhold this information if the current or former employee timely requested that this information be kept confidential under section 552.024. *See* Open Records Decision Nos. 622 (1994), 455 (1987); *see generally* Open Records Decision No. 530 (1989) (stating that whether particular piece of information is public must be determined at time request for it is made). You indicate that prior to the OAG's receipt of this written request, the employee at issue elected to withhold her social security number in accordance with section 552.024. Based on your representation, we agree that the OAG must withhold the submitted social security number under 552.117(a)(1).

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,

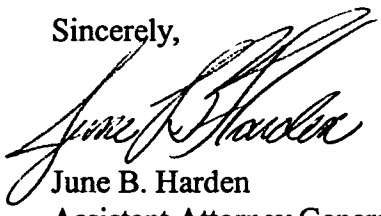
at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

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,



June B. Harden
Assistant Attorney General
Open Records Division

JBH/seg

Ref: ID# 192053

Enc: Submitted documents

c: Mr. Richard Carl Donaldson
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(w/o enclosures)