



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 18, 2006

Mr. James A. Farren
Criminal District Attorney
Randall County
501 16th St.
Canyon, Texas 79015

OR2006-14871

Dear Mr. Farren:

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#267186.

The Randall County Treasurer's Office (the "treasurer's office") received a request for specified information pertaining to the dismissal of a named individual. You claim that the submitted 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. We have also considered comments submitted by the individual whose information is at issue. *See* Gov't Code § 552.304 (providing that any person may submit comments stating why information should or should not be released).

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 information protected by other statutes. Section 552.101 of the Government Code encompasses section 301.081 of the Labor Code, and provides the following:

- (a) Each employing unit shall keep employment records containing information as prescribed by the commission and as necessary for the proper administration of this title. The records are open to inspection and may be copied by the commission or an authorized representative of the commission at any reasonable time and as often as necessary.
- (b) The commission may require from an employing unit sworn or unsworn reports regarding persons employed by the employing unit as necessary for the effective administration of this title.

(c) Employment information thus obtained or otherwise secured may not be published and is not open to public inspection, other than to a public employee in the performance of public duties, except as the commission considers necessary for the proper administration of this title.

(d) A person commits an offense if the person is an employee or member of the commission who violates any provision of this section. An offense under this subsection is punishable by a fine of not less than \$20 nor more than \$200, confinement in jail for not more than 90 days, or both fine and confinement.

Labor Code § 301.081. This office interpreted the predecessor provision of section 301.081(c) to apply to information the Texas Workforce Commission (the "commission") obtains from the records and reports that employers are required to file with the commission. *See* Open Records Decision No. 599 (1992) (construing former V.T.C.S. art. 5221b-9). Thus, the provision applies only to records held by the commission and not to records maintained by the employing entity. *See Rainbow Group, Ltd. v. Texas Employment Comm'n*, 897 S.W.2d 946 (Tex. App.—Austin 1995, writ denied) (construing statutory predecessor). *But see* Open Records Decision Nos. 516 (1989), 490 (1988) (stating that confidential information may be transferred between state agencies without destroying its confidential character). In this instance, you state that the information at issue may be provided in the future to the commission as part of the commission's evaluation of a former employee's claim for unemployment benefits. Since the submitted information consists of records of the treasurer's office, we conclude that section 301.081 of the Labor Code is not applicable in this instance.

We note, however, that the submitted information contains a social security number.¹ 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. Accordingly, the treasurer's office must withhold the social security number we have marked pursuant to section 552.147 of the Government Code. As the treasurer's office raises no further exceptions to disclosure, 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

¹The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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,



Holly R. Davis
Assistant Attorney General
Open Records Division

HRD/kr1

Ref: ID# 267186

Enc. Submitted documents

c: Mr. Sean Thomas
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(w/o enclosures)