



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 8, 2011

Mr. Reg Hargrove
Assistant Attorney General
Public Information Coordinator
General Counsel Division
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

OR2011-09695

Dear Mr. Hargrove:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 423161 (PIR No. 11-30497).

The Office of the Attorney General (the "OAG") received a request for information concerning an investigation of an international child custody dispute. The OAG asserts the information is excepted from public disclosure under sections 552.101 and 552.139 of the Government Code. We have considered the OAG's arguments and reviewed the submitted information.

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 office has held the transfer of confidential information between governmental agencies does not destroy the confidentiality of that information. Attorney General Opinions H-917 (1976), H-836 (1974); Open Records Decision Nos. 561 (1990), 414 (1984), 388 (1983), 272 (1981), 183 (1978). These opinions recognize the need to maintain an unrestricted flow of information between state agencies. In Open Records Decision No. 561, we considered whether the same rule applied regarding information deemed confidential by a federal agency. In that decision, we noted the general rule that section 552 of title 5 of the United States Code, the federal Freedom of Information Act,

applies only to federal agencies and does not apply to records held by state agencies. ORD 561 at 6. Further, we stated information is not confidential when in the hands of a Texas agency simply because the same information is confidential in the hands of a federal agency. *Id.* However, in the interests of comity between state and federal authorities and to ensure the flow of information from federal agencies to Texas governmental bodies, we concluded, “when information in the possession of a federal agency is ‘deemed confidential’ by federal law, such confidentiality is not destroyed by the sharing of the information with a governmental body in Texas. In such an instance, [section 552.101] requires a local government to respect the confidentiality imposed on the information by federal law.” *Id.* at 7.

The OAG explains it received the information at issue from the United States Department of Justice, INTERPOL Washington, which considers the marked information to be confidential under the law enforcement privilege found in section 552(b)(7)(D) of title 5 of the United States Code and under the personal privacy provisions found in subsections 552(b)(6) and 552(b)(7)(C) of title 5 of the United States Code. *See* 5 U.S.C. § 552(b)(6), (7)(C), (7)(D). Therefore, based on the OAG’s representations and our review, we agree the OAG must withhold the information it marked under section 552.101 of the Government Code in conjunction with federal law.

Next, the OAG asserts section 552.139 of the Government Code excepts from public disclosure the marked employee user ID. Section 552.139 provides in part:

(a) Information is excepted from the requirements of Section 552.021 if it is information that relates to computer network security, . . . , or to the design, operation, or defense of a computer network.

(b) The following information is confidential:

...

(2) any other assessment of the extent to which data processing operations, a computer, or a computer program, network, system, or system interface, or software of a governmental body or of a contractor of a governmental body is vulnerable to unauthorized access or harm, including an assessment of the extent to which the governmental body’s or contractor’s electronically stored information containing sensitive or critical information is vulnerable to alteration, damage, erasure, or inappropriate use[.]

Gov’t Code § 552.139(a), (b)(2). The OAG states the employee’s user ID allows the employee access to the OAG’s secure computer system and network as a unique user code. Based on this argument, we agree the employer user ID pertains to computer network

security or the design, operation, or defense of a computer network for purposes of section 552.139(a). Therefore, the OAG must withhold the marked employee user ID under section 552.139(a).

In summary, the OAG must withhold the information it marked under sections 552.101 and 552.139 of the Government Code. The OAG must release the remainder.

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/sdk

Ref: ID# 423161

Enc: Submitted documents

c: Requestor
(w/o enclosures)