



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 23, 2015

Ms. Lauren Downey
Assistant Attorney General
Public Information Coordinator
General Counsel Division
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

OR2015-19906

Dear Ms. Downey:

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# 580728 (OAG PIR No. 15-41874).

The Office of the Attorney General (the "OAG") received a request for information regarding a specified arrest. You state the OAG will release most of the requested information with redactions made pursuant to section 552.147(b) of the Government Code¹ and Open Records Letter No. 2011-18124 (2011).² You claim the remaining requested 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.

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. Pursuant to section 603.4 of title 20 of the Code of Federal Regulations, state unemployment compensation agencies, such as the Texas Workforce Commission (the "commission"), must

¹Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. Gov't Code § 552.147(b).

²In Open Records Letter No. 2011-18124 this office issued the OAG a previous determination authorizing it to withhold an employee's user ID under section 552.139 of the Government Code without the necessity of requesting a decision from this office.

protect the confidentiality of unemployment claim information which “reveals the name or any identifying particular about any individual or any past or present employer or employing unit, or which could foreseeably be combined with other publicly available information to reveal any such particulars, and must include provision for barring the disclosure of any such information[.]” 20 C.F.R. § 603.4(b). “Claim information” means information about whether an individual is receiving, has received, or has applied for unemployment compensation, as well as “[a]ny other information contained in the records of the State [unemployment compensation] agency which is needed by the requesting agency to verify eligibility for, and the amount of, benefits.” 20 C.F.R. § 603.2(a)(1)(i), (2)(ii). Information in the commission’s files may be disclosed to a requesting agency or other specified parties under certain circumstances. *See* 20 C.F.R. §§ 603.5, .6, .21. Section 603.5(e) provides “[d]isclosure of confidential [unemployment compensation] information to a public official for use in the performance of his or her official duties is permissible.” *Id.* § 603.5(e). “Performance of official duties” means “administration or enforcement of law or the execution of the official responsibilities of a Federal, State, or local elected official.” *Id.* Section 603.9 further states that for disclosures under section 603.5(e), the commission “must require the recipient to safeguard the information disclosed against unauthorized access or redisclosure . . . and must subject the recipient to penalties . . . for unauthorized disclosure[.]” and sets out the required safeguards. *Id.* § 603.9.

You state some of the information you have marked in Exhibit B consists of confidential unemployment claim information, which you inform us was provided to the OAG by the commission. You state the commission maintains this information as part of its administration of the state unemployment compensation program, and that the commission has determined that releasing this information to the OAG is necessary for the administration or enforcement of laws under the OAG’s purview. *See id.* § 603.5(e). You further state the OAG has executed a confidentiality agreement with the commission with respect to this information. *See id.* § 603.9. We therefore conclude that the OAG must withhold the information you have marked in Exhibit B pursuant to section 552.101 of the Government Code in conjunction with these federal provisions.

Section 552.101 of the Government Code also encompasses laws that make criminal history record information (“CHRI”) confidential. CHRI generated by the National Crime Information Center or by the Texas Crime Information Center is confidential under federal and state law. CHRI means “information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal criminal charges and their dispositions.” *Id.* § 411.082(2). Part 20 of title 28 of the Code of Federal Regulations governs the release of CHRI obtained from the National Crime Information Center network or other states. *See* 28 C.F.R. § 20.21. The federal regulations allow each state to follow its individual law with respect to CHRI it generates. Open Records Decision No. 565 at 7 (1990). Section 411.083 of the Government Code makes CHRI the Texas Department of Public Safety (“DPS”) maintains confidential, except DPS may disseminate this information as provided in subchapter F of chapter 411 of the Government Code. *See* Act of May 27, 2015, 84th Leg.,

R.S., ch. 1279, § 21, 2015 Tex. Sess. Law Serv. 4337 (Vernon) (to be codified as an amendment to Gov't Code § 411.083(a)). Sections 411.083(b)(1) and 411.089(a) authorize a criminal justice agency to obtain CHRI. However, a criminal justice agency may only release CHRI to another criminal justice agency for a criminal justice purpose. Gov't Code § 411.089(b)(1). Thus, CHRI obtained from DPS or any other criminal justice agency must be withheld under section 552.101 of the Government Code in conjunction with subchapter F of chapter 411 of the Government Code. Upon review, we find the information you have marked in Exhibit B under chapter 411 constitutes confidential CHRI. Therefore, the OAG must withhold this information under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code.

In summary, the OAG must withhold the wage information you have marked in Exhibit B pursuant to section 552.101 of the Government Code in conjunction with federal law. The OAG must also withhold the CHRI you have marked in Exhibit B under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Kristi L. Godden
Assistant Attorney General
Open Records Division

KLK/cz

Ref: ID# 580728

Enc. Submitted documents

c: Requestor
(w/o enclosures)