



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

January 11, 2017

Mr. Sharbel Sfeir  
Assistant General Counsel  
Office of the General Counsel  
Texas Department of Criminal Justice  
P.O. Box 4004  
Huntsville, Texas 77342-4004

OR2017-00758

Dear Mr. Sfeir:

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# 641243.

The Texas Department of Criminal Justice (the "department") received a request for information pertaining to a specified incident involving the requestor's client. You claim the submitted information is exempted 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 exempts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses section 402.083(a) of the Labor Code, which states "[i]nformation in or derived from a claim file regarding an employee is confidential and may not be disclosed by the [Division of Workers' Compensation of the Texas Department of Insurance (the "division")] except as provided by this subtitle[.]" Labor Code § 402.083(a). In Open Records Decision No. 533 (1989), this office construed the predecessor to section 402.083(a) to apply only to information the governmental body obtained from the Industrial Accident Board, subsequently the Texas Workers' Compensation Commission, and now the division. *See* Open Records Decision No. 533 at 3-6; *see also* Labor Code § 402.086 (transferring confidentiality conferred by section 402.083(a) of the Labor Code to information other parties obtain from division files).

Accordingly, information in the possession of the department that was not obtained from the division may not be withheld on the basis of section 402.083(a). Although the department asserts the submitted information is confidential pursuant to section 402.083, the department provides no representation, and the documents do not reflect, the department received these records from the division. Therefore, the department has failed to demonstrate the applicability of section 402.083 to any of the information at issue. Thus, the department may not withhold any of the submitted information under section 552.101 of the Government Code in conjunction with section 402.083 of the Labor Code.

Section 552.101 of the Government Code also encompasses section 412.0128 of the Labor Code, which provides “[i]nformation in or derived from a worker’s compensation claim file regarding an employee is confidential and may not be disclosed by the [State Office of Risk Management (the “SORM”)] except as provided by this subchapter or other law.” Labor Code § 412.0128. We note the language of section 412.0128 is substantially identical to section 402.083 of the Labor Code, which is discussed above. *See id.* § 402.083(a). As noted above, this office construed the predecessor to section 402.083(a) to apply only to information the governmental body obtained from the Industrial Accident Board, subsequently the Texas Workers’ Compensation Commission, and now the division. *See* ORD 533 at 3-6; *see also* Labor Code § 402.086. Accordingly, for purposes of section 402.083(a), information that was not obtained from the division may not be withheld on that basis. Based on this analysis, we find information in the possession of the department that was not obtained from the SORM may not be withheld on the basis of section 412.0128 of the Labor Code. Although the department asserts the submitted information is confidential pursuant to section 412.0128, the department provides no representation, and the documents do not reflect, the department received these records from the SORM. Therefore, the department has failed to demonstrate the applicability of section 412.0128 to any of the information at issue. Thus, the department may not withhold any of the submitted information under section 552.101 of the Government Code in conjunction with section 412.0128 of the Labor Code. As you raise no other exceptions to disclosure, the department must release the submitted information.<sup>1</sup>

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.

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<sup>1</sup>We note the information being released contains information to which the requestor has a right of access under section 552.023 of the Government Code. *See* Gov’t Code § 552.023 (“[a] person or a person’s authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person’s privacy interests”); *see also* Open Records Decision No. 481 at 4 (1987).

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](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,



Cristian Rosas-Grillet  
Assistant Attorney General  
Open Records Division

CRG/bw

Ref: ID# 641243

Enc. Submitted documents

c: Requestor  
(w/o enclosures)