



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 24, 2018

Mr. Robert N. Jones, Jr.
Assistant General Counsel
Texas Workforce Commission
101 East 15th Street
Austin, Texas 78778-0001

OR2018-01629

Dear Mr. Jones:

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# 692656 (TWC Tracking No. 171012-007).

The Texas Workforce Commission (the "commission") received a request for five categories of information pertaining to complaints made by employees or former employees of the Texas Department of Criminal Justice.¹ You state the commission does not have information responsive to three of the requested categories.² You claim the remaining requested information is excepted from disclosure under section 552.101 of the Government Code. We

¹We note the commission asked for and received clarification regarding this request. See Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information); *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

²We note the Act does not require a governmental body to disclose information that did not exist at the time the request was received. *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Attorney General Opinion H-90 (1973); Open Records Decision Nos. 452 at 2-3 (1986), 342 at 3 (1982), 87 (1975); see also Open Records Decision Nos. 572 at 1 (1990), 555 at 1-2 (1990), 416 at 5 (1984).

have considered the exception you claim and reviewed the submitted representative sample of information.³

Initially, we note portions of the submitted information, which we have marked, are not responsive to the instant request because they do not fall within any of the requested categories. The commission need not release nonresponsive information in response to this request, and this ruling will not address that information.

Next, you state responding to the second category of requested information would require “each [mediation] election sheet to be searched out in each separate file . . . and each electronic screen would need to be read and the screen prints would need to be provided of those that reflect an election to mediate by the respondent.” Thus, we understand you to assert that responding to this portion of the request would be too time consuming or burdensome. We note, however, that the administrative inconvenience of providing public records to a requestor in response to an open records request does not constitute sufficient grounds for denying such a request. *See Indus. Found, v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 687 (Tex. 1976). Therefore, a governmental body must make a good faith effort to relate a request to information which it holds. *See Open Records Decision No. 561 at 8* (1990). We therefore find that the commission may not refuse to comply with any portion of this request on the basis that doing so would be burdensome. In this case, as you have submitted information responsive to this portion of request and have raised an exception to disclosure for this information, we will address the applicability of the claimed exception to this 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. Section 552.101 encompasses information other statutes make confidential. Pursuant to section 21.204 of the Labor Code, the commission may investigate a complaint of an unlawful employment practice. *See Labor Code § 21.204; see also id.* §§ 21.0015 (powers of Commission on Human Rights under Labor Code chapter 21 transferred to the division), .201. Section 21.304 of the Labor Code, which relates to public release of information obtained by the commission, provides as follows:

An officer or employee of the commission may not disclose to the public information obtained by the commission under Section 21.204 except in compliance with section 21.305 and as necessary to the conduct of a proceeding under this chapter.

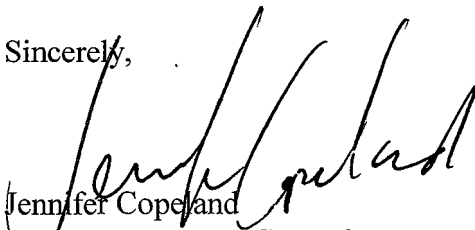
³We assume the “representative sample” of records submitted to this office is truly representative of the requested records as a whole. *See Open Records Decision Nos. 499 (1988), 497 (1988)*. This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

Id. § 21.304. You state the responsive information pertains to complaints of unlawful employment discrimination that were filed with the division under section 21.304 of the Labor Code and on behalf of the Equal Employment Opportunity Commission. We therefore agree the responsive information is confidential under section 21.304 of the Labor Code. You state the release provisions of section 21.305 of the Labor Code are not applicable to the submitted information because the requestor is not a party to the complaints. *See id.* § 21.305. Accordingly, the commission must withhold the responsive information under section 552.101 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,



Jennifer Cope and
Assistant Attorney General
Open Records Division

JC/gw

Ref: ID# 692656

Enc. Submitted documents

c: Requestor
(w/o enclosures)