



February 16, 1999

Ms. Susan Cory  
General Counsel  
Texas Workers' Compensation Commission  
Southfield Building, MS-4D  
4000 South IH-35  
Austin, Texas 78704-7491

OR99-0456

Dear Ms. Cory:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 122289.

The Texas Workers' Compensation Commission (the "commission") received a request for "all materials generated by, received by, or sent to" the commission concerning a named individual prior to a specified date. In response to the request, you have made a distinction between "claim file" and "investigation file"<sup>1</sup> information. The material you submitted as responsive to the request appears to be investigative material. You further assert that "[t]he Commission has previously informed the requestor of the procedure to obtain the claim file information."<sup>2</sup> You contend, however, that the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.111 of the Government Code. We have considered the exceptions and arguments you raise and reviewed the submitted information.

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<sup>1</sup>Section 402.092(a) of the Labor Code provides that information maintained in the investigative files of the commission is confidential and may not be disclosed except in four limited circumstances. Labor Code § 402.092(a). "Investigative file" is defined as "any information compiled or maintained by the commission with respect to a commission investigation authorized by law." *Id.* § 402.092(d).

<sup>2</sup>We note that subsection (c) of section 409.092 provides that information in investigation files which is derived from claim files is subject to the confidentiality provisions governing claim files. You advise, however, that none of the information you are seeking to withhold is claim file information.

This office previously addressed the extent to which the submitted records are subject to public disclosure in Open Records Letter No. 98-3269 (1998). In the previous ruling, this office concluded that the responsive submitted information was excepted from disclosure under section 552.101 in conjunction with the 402.092 of the Labor Code; therefore, we did not address your claims under sections 552.108 and 552.111. You explain that the information responsive to the *present* request is "identical" to the information at issue in the *prior* ruling. Because this office has issued a prior ruling regarding these records, it is unnecessary for us to issue a second ruling at this time. See Gov't Code § 552.301. Accordingly, you may rely on the conclusions reached in Open Records Letter No. 98-3269 in response to this request. A copy of the related ruling is enclosed for your convenience.

We are resolving this matter with an informal letter ruling rather than with a published open records decision.<sup>3</sup> This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Sam Haddad

Assistant Attorney General  
Open Records Division

SH/nc

Ref.: ID# 122289

Enclosures: Submitted documents  
Open Records Letter No. 98-3269 (1998)

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<sup>3</sup>It appears from the materials you submitted that the requestor may have already made a written request to the commission for the information at issue here prior to the November 13, 1998, request with regard to which you seek this office's decision. If that is the case, it may be that the commission has not complied with the requirements of Government Code section 552.301 regarding timeliness in seeking the attorney general's decision as to whether requested information may be withheld. We need not address these concerns further here, however, in view of our determination that the information at issue is made confidential by law. See, e.g., Open Records Decision No. 150 (1977) (presumption of openness arising from untimely request for attorney general's decision is overcome by a showing that the information is made confidential by law).

cc: Mr. Roger Parsons  
7602 North Jupiter Road, Suite 114-414  
Garland, Texas 75044-2082  
(Open Records Letter No. 98-3269 (1998))