



THE ATTORNEY GENERAL  
OF TEXAS

JIM MATTOX  
ATTORNEY GENERAL

December 21, 1990

Mr. A.W. Pogue  
Commissioner  
State Board of Insurance  
1110 San Jacinto  
Austin, Texas 78701-1998

OR90-585

Dear Mr. Pogue:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 10813.

The State Board of Insurance [the board] received an open records request for "all documents and other information related to investigation of and proceedings against" four named insurance agents. You indicate that only two of the individuals are the subjects of pending investigations and that you have made available to the requestor all information that has been disclosed during the course of disciplinary hearings relating to the investigations. You contend, however, that sections 3(a)(3) and 3(a)(7) of the Open Records Act protect other information pertaining to pending investigations and disciplinary hearings from required public disclosure.

You state that one of insurance agents in question

is the subject of a pending disciplinary action before the Commissioner. The hearing in the case has been held, but an order has not yet been issued. . . . It is the opinion of the attorney handling this case that [the information not yet released] is necessary to the conduct of the pending hearing and for future litigation which is reasonably anticipated.

Based on your representations that the board has not yet issued any order regarding the pending hearing and that the board intends to pursue other actions against the agent as the result of complaints that were not heard during that hearing, you may withhold the requested information pertaining to this agent at this time pursuant to sections 3(a)(3) and 3(a)(7). See generally Open Records Decision No. 575

(1990) (copy enclosed). For similar reasons, you may also withhold pursuant to section 3(a)(3) information pertaining to the pending investigation against the other insurance agent as well.

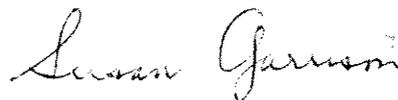
Finally, you state that

there is an investigator's report on [a third named insurance agent] which is exempt from disclosure under section 3(a)(11) of the Open Records Act. This report contains the advice, opinion or recommendation of a member of the agency staff. The factual summary of the investigation has been released to the requestor. Therefore, the report should not be released to the public.

You did not submit a copy of the report in question to this office for review. We are therefore unable to make the requisite determination that any portion of the report is excepted from required public disclosure. The information in the report is therefore presumed to be public and must be released in its entirety.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR90-585.

Yours very truly,



Susan Garrison  
Assistant Attorney General  
Opinion Committee

SG/RWP/le

Ref.: ID# 10813  
ID# 11088  
ID# 11209

Enclosures: Open Records Decision No. 575

cc: Bridget Chapman  
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