



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 18, 1995

Ms. Christine T. Rodriguez
Staff Attorney
Legal and Compliance, MC110-1A
Texas Department of Insurance
P.O. Box 149104
Austin, Texas 78714-9104

OR95-657

Dear Ms. Rodriguez:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 31863.

The Texas Department of Insurance (the "department") received a request for information concerning First American Pension Services, Inc., Phillip Scott Lynch, and Ralph Wallen Durham. You say the department will release some of the requested information to the requestor. However, the department seeks to withhold from required public disclosure certain information based on sections 552.101 and 552.111 of the Government Code.

You have submitted "representative samples" of the requested information, portions of which you have marked as within an exception to disclosure in the Open Records Act. Since you did not mark any of the submitted information as within section 552.111 of the Government Code, we cannot consider whether the department may withhold any of the requested information based on that exception.

You assert that the department may withhold any information that reveals the source of a complaint. Section 552.101 of the Government Code excepts from required public disclosure information that is confidential by law. This exception incorporates the informer's privilege, which protects from disclosure the identity of a person who reports a violation or possible violation of the law to officials charged with the duty of enforcing the particular law. *See* Open Records Decision No. 515 (1988). The privilege protects information reported to administrative-agency officials having a duty to enforce statutes with civil or criminal penalties. *See id.* at 2.

We agree that the informer's privilege applies in this case. Accordingly, the department may withhold from required public disclosure all information that identifies the complainant.¹

You have marked portions of two documents as protected from disclosure based on section 552.101 in conjunction with article 1.15B of the Insurance Code. Article 1.15B provides in part as follows:

Any information relating to the financial solvency of any organization regulated by the department under this code or another insurance law of this state obtained by the department's early warning system is confidential and is not subject to disclosure under the open records law, . . . , and its subsequent amendments.

We conclude that the department must withhold the information based on section 552.101 in conjunction with article 1.15B of the Insurance Code.

In reaching our conclusion here, we assume that 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) (where requested documents are numerous and repetitive, governmental body should submit representative sample; but if each record contains substantially different information, all must be submitted). 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

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Guajardo
Assistant Attorney General
Open Government Section

KHG/rho

¹This, of course, does not mean that the department may withhold the word "anonymous" that appears on several of the documents you enclosed.

Ref.: ID# 31863

Enclosures: Submitted documents

cc: Ms. Melissa J. Crockett
6413 Duck Creek Drive, Suite 2481
Garland, Texas 75043