



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 28, 1995

Mr. David M. Douglas
Assistant Chief, Legal Services
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR95-898

Dear Mr. Douglas:

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# 34904.

The Texas Department of Public Safety (the "department") received a request for information concerning a particular pipeline rupture. The department asserts that information relating to injuries, illnesses, or other conditions suffered by department employees and relating to the treatment of those medical conditions is excepted from required public disclosure based on section 552.101 of the Government Code. The department also asserts that the social security number, home address and other identifying information relating to peace officers are excepted from disclosure by sections 552.101 and 552.117 of the Government Code.

You inform us that the requested information is maintained in workers compensation claim files. You submitted a representative sample of one claim file.

Section 552.101 excepts from required public disclosure information considered to be confidential by law, including information made confidential by judicial decision. You assert that this exception applies to the requested medical information because it is made confidential by V.T.C.S. article 8308-2.31(a).

The legislature repealed V.T.C.S. article 8308-2.31(a) in 1993. *See* Act 1993, 73rd Leg., ch. 269, § 1. That provision is now covered in section 402.083(a) of the Labor Code, which provides as follows:

(a) Information in or derived from a claim file regarding an employee is confidential and may not be disclosed by the commission except as provided by this subtitle.

Section 402.085 of the Labor Code contains exceptions to the confidentiality of section 402.083, none of which applies here. Section 402.091(a) of the Labor Code reads as follows:

(a) A person commits an offense if the person knowingly, intentionally, or recklessly publishes, discloses, or distributes information that is confidential under this subchapter to a person not authorized to receive the information directly from the commission.

An offense under section 402.091(a) is a class A misdemeanor. Labor Code § 402.091(c). Accordingly, we conclude that the department must not release the requested claim file information to the requestor. Gov't Code § 552.101.¹

Having concluded that the department must withhold the requested information pursuant to section 552.101, we need not address your claim under section 552.117 of the Government Code. 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

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¹In 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.

Ref.: ID# 34904

Enclosures: Submitted documents

cc: Holly J. W. Huart, Esq.
Jamison Legal Center
1001 Texas Avenue, Suite 405
Houston, Texas 77002
(w/o enclosures)