



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 27, 2014

Mr. Stanton Strickland  
Associate Commissioner  
Legal Section  
General Counsel Division  
Texas Department of Insurance  
P.O. Box 149104  
Austin, Texas 78714-9104

OR2014-03584

Dear Mr. Strickland:

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# 515181 (TDI# 145767).

The Texas Department of Insurance (the "department") received a request for four categories of information related to complaints and proceedings under chapter 411 of the Labor Code. You state the department has released some information. You state the department is withholding some information in accordance with a previous determination issued in Open Records Letter No. 2005-00409 (2005).<sup>1</sup> You claim the remaining requested information is excepted from disclosure under section 552.101 of the Government Code. We have

---

<sup>1</sup>Open Records Letter No. 2005-00409 authorizes the department to withhold under section 552.101 of the Government Code in conjunction with section 402.092 of the Labor Code, without the necessity of requesting a decision under the Act, an investigative file maintained under section 414.005 of the Labor Code unless the information is subject to the release provisions found in section 402.092 or other provisions of law or is claim file information subject to section 402.092(c). See Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code).

considered the exception you claim and reviewed the submitted representative sample of information.<sup>2</sup>

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 section 402.092 of the Labor Code, which provides confidentiality and exceptions to confidentiality for the investigation files of the Division of Workers’ Compensation of the Department of Insurance (the “division”). Section 402.092 provides, in relevant part:

(b) Information maintained in the investigation files of the division is confidential and may not be disclosed except:

- (1) in a criminal proceeding;
- (2) in a hearing conducted by the division;
- (3) on a judicial determination of good cause;
- (4) to a governmental agency, political subdivision, or regulatory body if the disclosure is necessary or proper for the enforcement of the laws of this or another state or of the United States; or
- (5) to an insurance carrier if the investigation file relates directly to a felony regarding workers’ compensation or to a claim in which restitution is required to be paid to the insurance carrier.

(c) Division investigation files are not open records for purposes of [the Act].

(d) Information in an investigation file that is information in or derived from a claim file, or an employer injury report or occupational disease report, is governed by the confidentiality provisions relating to that information.

Labor Code § 402.092(b)–(d). For purposes of section 402.092, an investigation file is “any information compiled or maintained by the division with respect to a division investigation authorized under this subtitle or other workers’ compensation law [but] does not include information or material acquired by the division that is relevant to an investigation by the insurance fraud unit and subject to Section 701.151, Insurance Code.” *Id.* § 402.092(a).

---

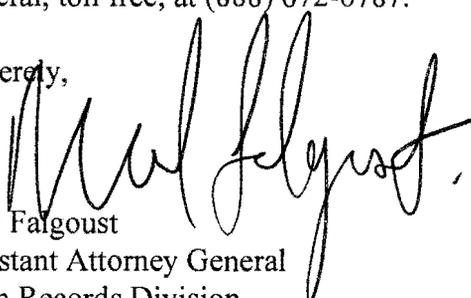
<sup>2</sup>We assume the “representative sample” of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than those submitted to this office.

You state the requested information consists of documents related to investigations of workplace safety violation reports. You state the division maintains a hotline under the Texas Workers' Compensation Act to receive these reports from workers who believe a violation of workplace safety laws has occurred. You explain the division investigates these reports pursuant to its authority under the Texas Workers' Compensation Act. Based on these representations and our review, we conclude the department must withhold the requested information under section 552.101 of the Government Code in conjunction with section 402.092 of the Labor 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](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,

  
Neal Falgoust  
Assistant Attorney General  
Open Records Division

NF/som

Ref: ID# 515181

Enc. Submitted documents

c: Requestor  
(w/o enclosures)