



THE ATTORNEY GENERAL
OF TEXAS

JIM MATTOX
ATTORNEY GENERAL

July 25, 1990

Mr. Ron Lindsey
Commissioner
Texas Department of Human Services
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Austin, Texas 78714-9030

Ms. Sue Berkel
Assistant Attorney General
Tort Litigation Division
P.O. Box 12548/Capitol Station
Austin, Texas 78711-2548

OR90-321

Dear Mr. Lindsey and Ms. Berkel:

You each ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your requests were assigned ID#'s 9844 and 9860.

The Attorney General of Texas and the Department of Human Services received an open records request for "a list of names and addresses of all occupants of Jubilee Home for Ladies who were contacted by [the Attorney General's Office] during [the attorney general's] investigation and lawsuit with Lester Roloff Enterprises, Inc., Corpus Christi Peoples Baptist Church, Jubilee Home for Ladies and The Anchor Home for Boys." Although you each express concern for the privacy rights of the children whose identities would be revealed by the release of this information, you have not provided this office with a basis for your concerns.

Section 3(a)(1) of the act protects "information deemed confidential by law, either Constitutional, statutory, or by judicial decision," including the common law right to privacy. Industrial Found. of the South v. Texas Indus. Accident Bd., 540 S.W.2d 668 (Tex. 1976), cert. denied, 430 U.S. 930 (1977). Common-law privacy protects information if it is highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, and it is of no legitimate concern to the public. Id. at 683-85.

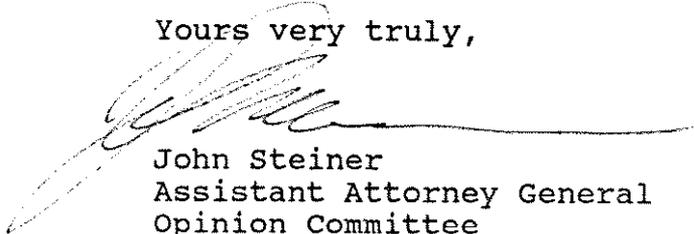
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In Attorney General Opinion H-90 (1973), which addressed whether certain information pertaining to children in child care facilities was protected by the common law right to privacy, this office held that while information that revealed "the identity of teen-age girls who have had illegitimate children, descriptions of children with bizarre behavior patterns, [and] marital problems of parents" would for the most part be deemed confidential under common law, the material in question would have to be examined by this office "on its own merits." Id. at 5-6. The rationale of that ruling would seem to indicate that the possibility exists that some records pertaining to identifiable children would not come under the protection of common-law privacy.

This office does not believe that the mere fact that a child is a resident of a child care facility implicates that child's privacy interests. Cf. Open Records Decision No. 475 (1987) (home addresses of disabled individuals not protected by common-law privacy); see also 20 U.S.C. § 1232g(a)(5)(A), (b)(1) (absent notice from student's parent, student's home address is public information). Consequently, the requested information is public and must be released.

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 OR90-321.

Yours very truly,



John Steiner
Assistant Attorney General
Opinion Committee

JS/RWP/le

Ref.: ID# 9844
ID# 9860

cc: Hugh J. Plummer
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