



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 10, 1996

Mr. Richard J. Ybarra
Open Records Coordinator
General Counsel Division
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

OR96-1112

Dear Mr. Ybarra:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 100032.

The Office of the Attorney General (the "OAG") received a request for "a copy of the investigative report done on the Foster Care Home of Ms. Sue Leatherwood in behalf of Mrs. C. A. Fairbanks." You assert that the requested report is excepted from required public disclosure pursuant to sections 552.101 and 552.103 of the Government Code.

Section 552.101 of the Government Code excepts from disclosure information that is made confidential by law, including information that is confidential by statute. A governmental body must not release to the public information that is covered by section 552.101. *See* Gov't Code § 552.353 (providing criminal penalties for release of confidential information). You raise section 48.101 of the Human Resources Code which provides in part as follows:

(a) The following information is confidential and not subject to disclosure under Chapter 552, Government Code:

- (1) a report of abuse, neglect, or exploitation made under this chapter;
- (2) the identity of the person making the report; and

(3) except as provided by this section, all files, reports, records, communications, and working papers used or developed in an investigation made under this chapter or in providing services as a result of an investigation.

(b) Confidential information may be disclosed only for a purpose consistent with this chapter and as provided by department rule and applicable federal law.

.....

(f) The department may establish procedures to exchange with another state agency or governmental entity information that is necessary for the department or the agency or entity to properly execute its respective duties and responsibilities to provide services to elderly or disabled persons under this chapter or other law. An exchange of information under this subsection does not affect whether the information is subject to disclosure under Chapter 552, Government Code.

The requested information is a Report of Contact, with accompanying documentation, prepared by the Texas Department of Human Resources following an investigation of a complaint concerning the abuse and neglect of an elderly person in an unlicensed personal care home. You inform us that the report was made pursuant to chapter 48 of the Human Resources Code. We have examined the report and conclude that it is made confidential by section 48.101 of the Human Resources Code. Accordingly, the OAG must not disclose the report to the requestor in accordance with section 552.101 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 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Guajardo
Assistant Attorney General
Open Records Division

Ref.: ID# 100032

Enclosures: Submitted documents

cc: Ms. Jan Parrish, RNC, BSN
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(w/o enclosures)