



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 1, 2015

Mr. Jonathan Miles
Open Government Attorney
Texas Department of Family and Protective Services
P.O. Box 149030
Austin, Texas 78714-9030

OR2015-18217

Dear Mr. Miles:

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# 577589 (DFPS ORR No. 06112015FGT).

The Texas Department of Family and Protective Services (the "department") received a request for the requestor's personnel file. You state you will redact information pursuant to the previous determination issued in Open Records Letter No. 2003-5590(2003).¹ You further state the department will withhold certain information pursuant to Open Records Decision No. 684 (2009) and redact social security numbers pursuant to section 552.147(b) of the Government Code.² You claim some of the submitted information is excepted from

¹Open Records Letter No. 2003-5590 is a previous determination authorizing the department to withhold, under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code, the records concerning an investigation of an allegation of abuse or neglect of a child and the records used or developed in providing services as a result of such an investigation, unless the department's rules permit the department to release requested records to a particular requestor.

²Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold certain information without the necessity of requesting an attorney general decision. Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office. Gov't Code § 552.147(b).

disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.³

Section 552.101 of the Government Code excepts from required public disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. This section encompasses information other statutes make confidential. Section 48.101 of the Human Resources Code provides in pertinent part as follows:

(a) The following information is confidential and not subject to disclosure under [the Act]:

(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 or investigating state agency rule and applicable federal law.

...

(d) The executive commissioner [of the Texas Health and Human Services Commission] shall adopt rules providing for the release, on request, to a person who is the subject of a report of abuse, neglect, or exploitation or to that person’s legal representative of otherwise confidential information relating to that report. The department or investigating state agency shall edit the information before release to protect the confidentiality of information relating to the reporter’s identity and to protect any other individual whose safety or welfare may be endangered by disclosure.

Hum. Res. Code § 48.101(a), (b), (d). You state the submitted information includes investigations of elder abuse or neglect conducted by Adult Protective Services (“APS”) under chapter 48 of the Human Resources Code. Such information must not be released to the public, except for a purpose consistent with chapter 48 or as provided by a department

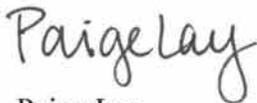
³We assume the “representative sample” of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

or investigating state agency rule or federal law. *See id.* § 48.101(b)-(g) (permitting release of confidential information only in certain circumstances). Based on your representations and our review of the records, we agree the information you have marked is confidential under section 48.101 of the Human Resources Code. *See* Hum. Res. Code § 48.101(b). You inform us the department has promulgated rules concerning the confidentiality of APS records. *See* 40 T.A.C. §§ 705.7107, .7109. You state the requestor in this instance is not an individual who would have access to the records at issue. *See* Hum. Res. Code § 48.101(c); 40 T.A.C. §§ 705.7107, .7109. Accordingly, the department must withhold the information you marked under section 552.101 of the Government Code in conjunction with section 48.101 of the Human Resources Code. The remaining information must be released.

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, 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,



Paige Lay
Assistant Attorney General
Open Records Division

PL/bhf

Ref: ID# 577589

Enc. Submitted documents

c: Requestor
(w/o enclosures)