



THE ATTORNEY GENERAL OF TEXAS

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September 9, 1977

Honorable Jerome D. Chapman,
Deputy Commissioner
State Department of Public
Welfare
Reagan Building
Austin, Texas 78701

Open Records Decision No.176

Re: Whether a complaint
concerning possible violations
of child care standards is
public under the Open Records
Act.

Dear Commissioner Chapman:

You have requested our decision as to whether the identity of an individual who complains about possible violations of child care standards is public information under the Open Records Act. You state that an individual has complained to the Department of Public Welfare regarding conditions existing at a day care center, a facility licensed by the Department under article 695a-3, V.T.C.S. The complainant's letter alleges a lack of sanitation and running water, as well as neglect and racial discrimination on the part of the operator of the facility, who now seeks disclosure of the complainant's identity.

We addressed a similar question in Open Records Decision No. 49 (1974). There we held that

information in the case record concerning a complaint of child abuse which would reveal the identity of the complainant is excepted from disclosure under the Open Records Act by §3(a)(1), as information deemed confidential by judicial decisions recognizing the informer's privilege.

Id. at 2. We based that decision upon

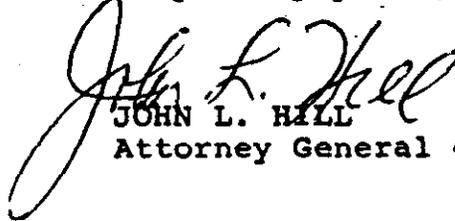
Texas' strong public policy of encouraging reports of suspected child abuse.

Id. at 1 Section 34.01 of the Family Code requires "[a]ny person having cause to believe that a child's physical or

mental health or welfare has been or may be adversely affected by abuse or neglect" to report such information to the Department of Public Welfare or to a law enforcement agency. The statute also provides immunity from liability to any person who makes such a report, and requires the agency to investigate the charges. Family Code §§ 34.02; 34.03. Section 34.08 expressly makes reports of possible child abuse or neglect confidential.

In our opinion, the allegations here could reasonably furnish the basis for an investigation by the Department, and is within the scope of the type of report made confidential by section 34.08. Disclosure of the complainant's identity would probably discourage such reports, and indeed, the complainant here specifically requested in the report that the name not be revealed. Accordingly, we believe that the identity of the complainant is excepted from disclosure under section 3(a)(1) of the Open Records Act as information deemed confidential by law, by section 34.08 of the Family Code, and by judicial decisions recognizing the informer's privilege. Open Records Decision No. 49 (1974). See Open Records Decision No. 156 (1977).

Very truly yours,



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Attorney General of Texas

APPROVED:



DAVID M. KENDALL, First Assistant



C. ROBERT HEATH, Chairman
Opinion Committee

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