



DAN MORALES
ATTORNEY GENERAL

**Office of the Attorney General
State of Texas**

February 5, 1991

**Mr. Ron Lindsey
Commissioner
Texas Department of Human
Services
P.O. Box 149030
Austin, Texas 78714-9030**

Open Records Decision No. 584

**Re: Restrictions on release of client
information by the Texas Department of
Human Services (RQ-2138)**

Dear Mr. Lindsey:

You ask whether information relating to individuals receiving Aid to Families with Dependent Children (AFDC) or Medicaid assistance may be released under the Open Records Act once the names and addresses of the individuals concerned have been deleted.

The Texas Department of Human Services ("the department") has received an open records request for the release of a wide range of information included in the department's "strip files" regarding individual department clients. The requestor believes that the state and federal confidentiality statutes protecting AFDC and Medicaid information from disclosure only apply when information identifying the specific client to whom the information relates is sought. Your office contends that the release of the requested information is prohibited by sections 12.003 and 21.012 of the Human Resources Code, and by section 602(a)(9) of title 42 of the United States Code. You therefore seek to withhold it from disclosure under the Open Records Act by section 3(a)(1), as information deemed confidential under statutory law. We agree with the department that state and federal law prohibit disclosure of the contested information, whether or not the names and addresses of individual clients are deleted prior to release.

The department is the agency responsible for administering federal welfare programs under the Social Security Act (chapter 7 of title 42 of the United States Code), such as Medicaid and AFDC, within Texas. Hum. Res. Code § 22.002. To be eligible for the federal grants distributed under these programs, state assistance plans must meet certain federal requirements. 42 U.S.C. § 602. Section 602(a)(9) of the Social Security Act requires in pertinent part that state plans must

provide safeguards which restrict the use or disclosure of information concerning applicants or recipients to purposes directly connected

with (A) the administration of the plan of the State approved under this part, the plan or program of the State under part B, C, or D of this subchapter or under subchapter I, X, XIV, XVI, XIX, or XX of this chapter, or the supplemental security income program established by subchapter XVI of this subchapter, (B) any investigation, prosecution, or criminal or civil proceeding, conducted in connection with the administration of any such plan or program (Emphasis added.)

Accordingly, section 21.012 of the Texas Human Resources Code requires that the Department of Human Services

shall provide safeguards which restrict the use or disclosure of information concerning applicants for or recipients of the department's assistance programs to purposes directly connected with the administration of the programs.

Section 12.003 of the code provides:

Except for purposes directly connected with the administration of the department's assistance programs, it is an offense for a person to solicit, disclose, receive, or make use of, or to authorize, knowingly permit, participate in, or acquiesce in the use of the names of, or any information concerning persons applying for or receiving assistance if the information is directly or indirectly derived from the records, papers, files, or communications of the department or acquired by employees of the department in the performance of their official duties. (Emphasis added.)

In Open Records Decision No. 166 (1977), this office stated in regard to the predecessor statute to section 12.003, "[i]n our opinion, the provision is clear. It prohibits, with the exceptions noted in the statute, the release of 'any information concerning persons . . . receiving . . . public assistance or Medical Assistance.'" Open Records Decision No. 166 then went on to hold that the records of the Department of Public Welfare, now the department, relating to mistreatment of a nursing home resident receiving medical assistance from the state were within the section 3(a)(1) exception by reason of the welfare statute prohibiting disclosure.

We agree that the clear language of the statute prohibits the disclosure of the information sought. The requested release of information is manifestly not directly

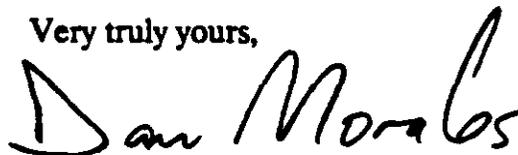
connected with the administration of the welfare programs. The inclusion of the words "or any information" juxtaposed with the prohibition on disclosure of the names of the department's clients clearly expresses a legislative intent to encompass the broadest range of individual client information, and not merely the clients' names and addresses. Moreover, even if the controlling factor in release of client information were the identification of the individual client, the requested information could not be released; from the amount of detailed information requested, one could ascertain the identities of the subjects. See Open Records Decision No. 9 (1973).

Both state and federal law prohibit the release of information about welfare applicants and recipients to the general public by limiting disclosure to purposes directly connected to the administration of the welfare programs. In doing so, they exempt this information from the Open Records Act by virtue of the section 3(a)(1) exception for information deemed confidential by statutory law.

SUMMARY

The Open Records Act does not authorize the disclosure of any information about individual clients of the Aid to Families with Dependent Children and Medicaid programs administered by the Texas Department of Human Services. Sections 12.003 and 21.012 of the Human Resources Code, in accordance with title 42, section 602(a)(9), of the United States Code, forbid disclosure of any such information for purposes not directly connected with the administration of the programs. Therefore, this material is excepted from disclosure by section 3(a)(1) of the Open Records Act as information deemed confidential by statutory law.

Very truly yours,



DAN MORALES
Attorney General of Texas

WILL PRYOR
First Assistant Attorney General

MARY KELLER
Executive Assistant Attorney General

RENEA HICKS
Special Assistant Attorney General

SUSAN GARRISON
Chairman, Opinion Committee

Prepared by Faith S. Steinberg
Assistant Attorney General