



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 18, 1991

Mr. Burton F. Raiford
Interim Commissioner
Texas Department of Human Services
P. O. Box 149030
Austin, Texas 78714-9030

OR91-573

Dear Mr. Raiford:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 13439.

You have received a request for a review report of an investigation of abuse, exploitation or neglect in a Mental Health-Mental Retardation (MH-MR) facility. You claim the requested information is excepted from required public disclosure by section 3(a)(1) of the Open Records Act.

You ask whether reviews conducted pursuant to section 48.041 of the Human Resources Code are made confidential by that code and excepted from required public disclosure by section 3(a)(1) of the Open Records Act. Section 48.083 provides for the confidentiality of records generated under chapter 48 and states:

The records of the department or other agency pertaining to an elderly or disabled person who is protected under this chapter or for whom an application for protection has been made are not open to public inspection. Information contained in the records may not be disclosed publicly in a manner that will identify an individual, but the records shall be available on application for cause to persons approved by the court having jurisdiction of the case under Chapter V, Texas Probate Code.

The requested review does not pertain to "an elderly or disabled person" who is protected under chapter 48, but rather to an employee of the Department of Human Services. Nevertheless, some of the review contains information that may identify protected individuals. Accordingly, the names of protected individuals must be excepted from required public disclosure.

You also claim that some of the requested information is protected by the informer's privilege. Where a grievance does not disclose a violation of any civil or criminal statute, the informer's privilege is not applicable. *See Open Records Decision No 515 (1988)*. It is not clear to us whether the complaint for which the original investigation was conducted involved a possible violation of a civil or criminal statute. Accordingly, you may not properly invoke the informer's privilege.

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 OR91-573.

Yours very truly,



William Walker
Assistant Attorney General
Opinion Committee

WW/GK/lcd

Enclosures: Open Records Decision No. 515 (1990)

Ref.: ID# 13439

cc: Mr. William Queenan
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for Mental Health and Mental Retardation
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