



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

January 31, 1995

Ms. Elaine S. Hengen  
Assistant City Attorney  
Office of the City Attorney  
The City of El Paso  
2 Civic Center Plaza  
El Paso, Texas 79901-1196

OR95-054

Dear Ms. Hengen:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 31128.

The El Paso Police Department (the "department") has received a request from a representative of the Texas Department of Protective and Regulatory Services ("TDPRS") for a copy of a particular incident report. The report contains information that is protected from required public disclosure based on section 552.101 of the Government Code in conjunction with the common-law right to privacy.<sup>1</sup> *See Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert denied*, 430 U.S. 931 (1977). You ask whether a representative of TDPRS has a right to gain access to the requested information.

Information that is excepted from public disclosure under the Open Records Act may be transferred between state agencies without destroying its confidential character, if the agency to which the information is transferred has the authority to obtain it. *See* Open Records Decision No. 516 (1989), at 4-5; 490 (1988), at 2. Pursuant to section 48.0385(a) of the Texas Human Resources Code (the "code"), TDPRS has a statutory right to gain access to records that are necessary in performing its duty to provide

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<sup>1</sup>Section 552.101 of the Government Code excepts from required public disclosure information that is confidential by law.

protective services under chapter 48 of the code, including the investigation of abuse, exploitation, or neglect, and the provision of protective services to a disabled person. *See* Open Records Letter No. 94-879 (1994). We, therefore, conclude that the TDPRS representative may obtain the requested report in the course of providing services to a TDPRS client, or in conducting an investigation of abuse, exploitation, or neglect.<sup>2</sup>

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 under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Guajardo  
Assistant Attorney General  
Open Government Section

KHG/rho

Ref.: ID# 31128

Enclosures: Submitted documents

cc: Mr. Pedro Adame  
Texas Department of Protective  
and Regulatory Services  
1401 Pendale, Suite # 300  
El Paso, Texas 79936  
(w/o enclosures)

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<sup>2</sup>We note that the report indicates that the mother of the victim in the report has already contacted the TDPRS representative about the incident.