



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

December 2, 1998

Ms. Judith A. Hunter  
Paralegal  
City of Georgetown  
P. O. Box 409  
Georgetown, Texas 78627-0409

OR98-2913

Dear Ms. Hunter:

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# 120126.

The Georgetown Police Department (the "department") received an open records request for a particular incident report. You contend, *inter alia*, that the requested incident report is made confidential under section 48.101 of the Human Resources Code and that the requested information is therefore excepted from public disclosure pursuant to section 552.101 of the Government Code.<sup>1</sup>

Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, *statutory*, or by judicial decision." (Emphasis added.) Section 48.101 of the Human Resources Code pertains to disclosure of information about reports of abuse, neglect, or exploitation of elderly and disabled persons in certain facilities. Section 48.101 reads in part as follows:

(a) The following information is confidential and not subject to disclosure under Chapter 552, Government Code:

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<sup>1</sup>We note that you did not request an open records decision from this office within ten business days following the department's receipt of the open records request. See Gov't Code § 552.301(a). However, if the requested information is made confidential by law, this fact will overcome the legal presumption that the information is now public. See Gov't Code § 552.302; *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379 (Tex. App.--Austin 1990, no writ). Consequently, we will consider your section 552.101 claim.

. . . chapter [48 of the Human Resources Code];

(2) the identity of the person making the report; and

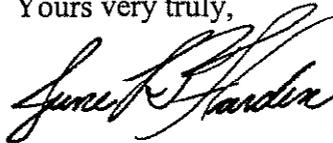
(3) except as provided by this section, all files, reports, records, communications, and working papers used or developed in an investigation made under this chapter or in providing services as a result of an investigation.

(b) Confidential information may be disclosed only for a purpose consistent with this chapter and as provided by department rule and applicable federal law.

We agree that the requested incident report is confidential under section 48.101(a) of the Human Resources Code. *See* Hum. Res. Code § 48.082(a); *see also id.* § 48.002 (definitions). The department must not release these records to the public, except for a purpose consistent with chapter 48 of the Human Resources Code, or as provided by federal law. *See id.* § 48.101(b); *but see id.* § 48.101(c), (d), (e), (f) (permitting release of confidential information in certain circumstances).

We are resolving this matter with an 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 should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



June B. Harden  
Assistant Attorney General  
Open Records Division

JBH/RWP/ch

Ref.:ID# 120126

Enclosures: Submitted documents

cc: Mr. Dick Allison  
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(w/o enclosures)