



April 28, 1999

Ms. Tina Plummer
Open Records Coordinator
Texas Department of Mental Health and Mental Retardation
P.O. Box 12668
Austin, Texas 78711-2668

OR99-1172

Dear Ms. Plummer:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 124134.

The Texas Department of Mental Health and Mental Retardation (the "department") received a request for information concerning a particular investigation that occurred from January to February 1999. You assert that the requested information is excepted from required public disclosure under section 552.101 of the Government Code in conjunction with section 48.101 of the Human Resources Code. You have submitted the requested information to this office for review.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. 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:

- (1) a report of abuse, neglect, or exploitation made under . . . 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

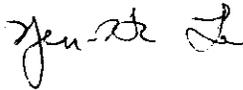
developed in an investigation made under this chapter or in providing services as a result of an investigation.

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

You state that the submitted documents are “used or developed in an investigation made under chapter 48 of the Human Resources Code.” Based on your representation, we agree that the submitted information is confidential pursuant to section 48.101(a) of the Human Resources Code. *See* Hum. Res. Code § 48.082(a); *see also id.* § 48.002 (definitions). Consequently, the information must not be disclosed to the public, except for a purpose consistent with chapter 48 of the Human Resources Code, or as provided by department rule or federal law. *See id.* § 48.101(b); *but see id.* § 48.101(c), (d), (e), (f) (permitting release of confidential information in certain circumstances).

Because section 48.101 of the Human Resources Code is dispositive, we need not address your other arguments against public disclosure. 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 regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/nc

Ref.: ID# 124134

Encl: Submitted documents

cc: Ms. Monica Hargrove
1715 Shelborne
Austin, Texas 78752
(w/o enclosures)