



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 3, 2014

Mr. Jonathan Miles
Open Government Attorney
Texas Department of Family and Protective Services
P.O. Box 149030
Austin, Texas 78714-9030

OR2014-21900

Dear Mr. Miles:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 545527 (DFPS ORR Request No. 09122014JVZ).

The Texas Department of Family and Protective Services (the "department") received a request for information pertaining to a specified investigation. You claim portions of the submitted information are excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information that other statutes make confidential. Section 40.005 of the Human Resources Code authorizes the department to adopt rules for the purpose of preserving the confidentiality of information and provides, in part:

- (a) The department shall establish and enforce rules governing the custody, use, and preservation of the department's records, papers, files, and communications.
- (b) The department shall prescribe safeguards to govern the use or disclosure of information relating to a recipient of a department service or to an investigation the department conducts in performing its duties and

responsibilities. The safeguards must be consistent with the purposes of the department's programs and must comply with applicable state and federal law and department rules.

Hum. Res. Code § 40.005(a)-(b). Rules governing the confidentiality of department investigation and facility monitoring records are found at chapter 745 of title 40 of the Texas Administrative Code. The department promulgated section 745.8483 of title 40 of the Texas Administrative Code to make confidential the name of an individual who makes a report that results in a child care facility license investigation. 40 T.A.C. § 745.8483. You state portions of the submitted information contain the name of an individual who made a report resulting in an investigation of child care operations. Upon review, we agree the information you have marked is confidential pursuant to section 745.8483. Therefore, the department must withhold the information you have marked under section 552.101 of the Government Code in conjunction with section 745.8483 of title 40 of the Texas Administrative Code. As you raise no further exceptions, the department must release the remaining information.

You ask this office to issue a previous determination that would permit the department to withhold the name of an individual who makes a report that results in a child care facility license investigation under section 552.101 of the Government Code in conjunction with section 745.8483 of title 40 of the Texas Administrative Code without the necessity of requesting a decision from this office. We decline to issue such a previous determination at this time. Accordingly, this letter ruling is limited to the particular information at issue in these requests and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Lee Seidlits
Assistant Attorney General
Open Records Division

CLS/som

Ref: ID# 545527

Enc. Submitted documents

c: Requestor
(w/o enclosures)