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ATTORNEY GENERAL OF TEXAS

June 15, 2022

Ms. Susan E. Tennyson
Open Government Attorney
Texas Department of Family and Protective Services
Department Mail Code E611
P.O. Box 149030
Austin, Texas 78714-9030

OR2022-17222

Dear Ms. Tennyson:

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# 954154 (ORR# R002203).

The Texas Department of Family and Protective Services (the "department") received a request for records related to case number 2022-BCSO-001553. The department claims the submitted information is excepted from disclosure under section 552.101 of the Government Code.¹ We have considered the exception the department claims and reviewed the submitted information.

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information made confidential by section 48.101 of the Human Resources Code, which provides, in pertinent part:

¹ We note the department did not comply with section 552.301 of the Government Code in requesting a ruling from this office. *See* Gov't Code § 552.301(b), (e). Nonetheless, because the exception the department claims can provide a compelling reason to overcome the presumption of openness, we will consider its applicability to the submitted information. *See id.* §§ 552.007, .302, .352.

(a) The following information is confidential and not subject to disclosure under [the Act]:

(1) a report of abuse, neglect, or exploitation made under this chapter;

(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 the [department] or investigating state agency rule and applicable federal law.

Hum. Res. Code § 48.101(a), (b). Section 48.051 of the Human Resources Code provides “a person having cause to believe that an elderly person, a person with a disability, or an individual receiving services from a provider as described by Subchapter F [of chapter 48 of the Human Resources Code] is in the state of abuse, neglect, or exploitation” shall report certain prescribed information to the department or another appropriate state agency. *See id.* § 48.051 (a). The only entities authorized to conduct an investigation under chapter 48 of the Human Resources Code are the department and certain other state agencies, depending on the circumstances surrounding the incident. *See id.* §§ 48.151, .152, .252, .301. The department states the submitted information is part of an investigation of abuse or neglect conducted by the department under chapter 48 of the Human Resources Code. Such information must not be released to the public, except for a purpose consistent with chapter 48 and as provided by a department or investigating state agency rule or federal law. *See id.* § 48.101(b)-(g) (permitting release of confidential information only in certain circumstances). Based on the department’s representations and our review, we agree the submitted information is confidential under section 48.101 of the Human Resources Code. *See id.* § 48.101(b). Accordingly, the department must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 48.101 of the Human Resources Code.

This letter ruling is limited to the particular information at issue in this request 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/jxd

Ref: ID# 954154

Enc. Submitted documents

c: Requestor
(w/o enclosures)