



The Attorney General of Texas

July 6, 1983

JIM MATTOX
Attorney General

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Affirmative Action Employer

Mr. James E. Darling
McAllen City Attorney
P. O. Box 220
McAllen, Texas 78501

Open Records Decision No. 389

Re: Whether report of investigation by McAllen Police Department of death of juvenile is open under the Open Records Act

Dear Mr. Darling:

In late 1980, the body of a deceased child was found in a tar pit located on private land situated within the city limits of the city of McAllen. After the body was discovered, the city's police department conducted an investigation and prepared a report of its findings. This report contains pictures of the scene, the autopsy and police reports, affidavits of children and adults who were interviewed during the investigation, and other miscellaneous documents.

The parents of the deceased child have retained an attorney, and he has asked for a copy of this report. You have asked whether the Open Records Act, article 6252-17a, V.T.C.S., requires you to comply with this request. You contend that sections 3(a)(1), 3(a)(3), 3(a)(8), and 3(a)(11) of the act authorize you to deny it.

Section 3(a)(1) excepts from required public disclosure:

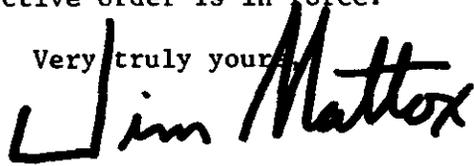
information deemed confidential by law, either Constitutional, statutory, or by judicial decision.

We have a copy of a protective order issued by the state district court for the 206th Judicial District. This order, which was signed by the judge on April 25, 1983, states in part:

[N]either the city of McAllen, its Police Department nor either of their custodians of documents are required by this Court to produce documents, statements, photographs, any other tangible things, or copies thereof, from their files concerning the events which took place giving rise to this litigation, i.e., the events surrounding and the death of [the deceased child].

This protective order renders the requested information "confidential by law" within the meaning of section 3(a)(1). You may therefore deny this request for as long as the protective order is in force.

Very truly yours,

A handwritten signature in black ink that reads "Jim Mattox". The signature is written in a cursive style with a large, stylized "J" and "M".

J I M M A T T O X
Attorney General of Texas

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First Assistant Attorney General

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APPROVED:
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