



## The Attorney General of Texas

October 6, 1986

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Mr. Glenn Williams  
Police Legal Advisor  
City of Austin  
Police Department  
715 East 8th Street  
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Open Records Decision No. 440

Re: Whether records of an investigation into allegations of sexual abuse of children at the Texas School for the Deaf are excepted from disclosure under the Open Records Act, article 6252-17a, V.T.C.S.

Dear Mr. Williams:

On behalf of the city of Austin, you request our decision under the Texas Open Records Act, article 6252-17a, V.T.C.S. The Austin Police Department has received a request "for access to records of an investigation into allegations of sexual abuse of children at the Texas School for the Deaf." It is unclear from your request whether you ask about investigations of child abuse reported pursuant to chapter 34 of the Family Code or criminal investigations of alleged violations of chapter 21 of the Penal Code. For purposes of this decision, we will assume you ask about both. You assert that the requested information is excepted from public disclosure pursuant to sections 3(a)(1) and 3(a)(3) of the act, which except information deemed confidential by law and information relating to litigation, respectively.

For reasons hereinafter explained, we agree that the requested materials are excepted under section 3(a)(1) of the act which excepts from public disclosure "information deemed confidential by law, either Constitutional, statutory or by judicial decision." Because we conclude that the information requested is excepted under section 3(a)(1) of the act, we need not address your section 3(a)(3) argument. We turn first to a discussion of chapter 34 of the Family Code.

Chapter 34 of the Family Code sets forth requirements regarding reports of child abuse. Various sections detail who is required to make such reports and to whom such reports are to be made. These sections specify the nature of the investigation and the report of the receiving agency and provide that failure to so report is a Class B misdemeanor. The Texas Department of Human Services is required by section 34.06 to establish and maintain a central registry of reported cases of child abuse or neglect and is authorized to promulgate rules in order to carry out the provisions of the section. Section 34.08 of the Family Code provides the following:

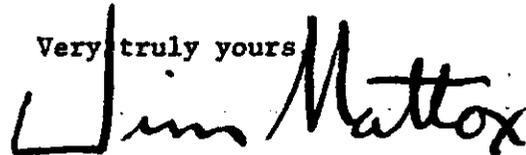
The reports, records, and working papers used or developed in an investigation made under this chapter are confidential and may be disclosed only for purposes consistent with the purposes of this code under regulations adopted by the investigating agency.

You inform us that "[t]he Austin Police Department has not adopted regulations which permit the dissemination of reports involving the investigation of child abuse to anyone other than [to] law enforcement agencies."

If the records sought in this instance consist of "reports, records, and working papers used or developed in an investigation" under chapter 34, then, by its very terms, section 34.08 makes such information confidential. Accordingly, we conclude that such materials are excepted from required public disclosure pursuant to section 3(a)(1) of the Open Records Act. See Open Records Decision Nos. 176 (1977); 49 (1974).

If, on the other hand, the records sought in this instance consist of criminal investigations of alleged violations of chapter 21 of the Penal Code, such records are also excepted from required public disclosure pursuant to section 3(a)(1). In Open Records Decision No. 393 (1983), this office specifically held that a police report regarding sexual abuse of a child is excepted from public disclosure under the common law right of privacy. See also Open Records Decision No. 339 (1982).

Very truly yours,



J I M M A T T O X

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