



**THE ATTORNEY GENERAL  
OF TEXAS**

**JIM MATTOX  
ATTORNEY GENERAL**

August 23, 1989

Mr. Neil Nichols  
General Counsel  
Texas Youth Commission  
P. O. Box 9999  
Austin, Texas 78766

Dear Mr. Nichols:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 7171; this decision is OR89-269.

Under the Open Records Act, all information held by governmental bodies is open unless the information falls within one of the act's specific exceptions to disclosure. The act places on the custodian of records the burden of proving that records are excepted from public disclosure. If a governmental body fails to claim an exception, the exception is ordinarily waived unless the information is deemed confidential under the act. See Attorney General Opinion JM-672 (1987). The act does not require this office to raise and consider exceptions that you have not raised.

The Texas Youth Commission received an open records request for its investigation into allegations against a certain individual of child abuse. You contend that this information is deemed confidential by law, in specific by section 34.08 of the Texas Family Code.

Open Records Decision No. 440 (1986) governs your request. The investigative report is confidential under section 3(a)(1) of the Open Records Act and must be withheld.

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Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR89-269.

Yours very truly,

*Open Government Section  
of the Opinion Committee*

Open Government Section  
of the Opinion Committee  
Approved by Jennifer S. Riggs  
Chief, Open Government Section

JSR/RWP/bc

Ref.: ID# 7171

cc: Mr. Raul Hernandez  
Reporter  
El Paso Herald-Post  
P. O. Box 20  
El Paso, Texas 79999