



DAN MORALES
ATTORNEY GENERAL

Office of the Attorney General
State of Texas

June 7, 1991

Mr. Michael F. Miller
Assistant City Attorney
City of Galveston
P. O. Box 779
Galveston, Texas 77553-0779

OR91-265

Dear Mr. Miller:

You ask whether certain information contained in a city police department file relating to a shooting incident involving two minors under 10 years of age is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 11980.

We understand that the file in question is active, but that no arrests have yet been made or charges filed. You have submitted information in the file that you indicate is responsive to the request, but you argue that that information is excepted from required disclosure under sections 3(a)(1) and 3(a)(8) of the Open Records Act. The information submitted consists of an offense report and supplements thereto, "Property Receipts" relating to the weapon allegedly used in the shooting and to a test for presence of gunshot residues, a Department of Public Safety "Physical Evidence Submission Form" relating to the gunshot residue test, voluntary statements by the minors and a witness, copies of one of the minor's birth certificate and social security card, and Department of Human Services documents relating to a report of abuse or neglect of one of the minors.

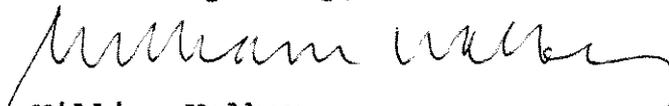
The Department of Human Services documents must be withheld from public disclosure under section 3(a)(1) of the Open Records Act, which excepts information deemed confidential by other law, in conjunction with section 34.08 of the Family Code, which excepts information used or developed in departmental investigations of reports of abuse or neglect of children under chapter 34 of the Family Code. See Open Records Decision No. 440 (1986).

The balance of the requested information, with the exception of the first page of the offense report, which

must be disclosed, consists of investigative and evidentiary materials that fall within the protection of section 3(a)(8), the law enforcement exception. See Houston Chronicle Publishing Co. v. City of Houston, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975, writ ref'd n.r.e. per curiam), 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). Assuming that you will in fact withhold from public disclosure the information section 3(a)(8) permits you to withhold, we do not think it necessary to address here whether any other exceptions under the Open Records Act would also permit or require withholding of this information.

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 OR91-265.

Yours very truly,



William Walker
Assistant Attorney General
Opinion Committee

WW/mc

Ref.: ID# 11980

Enclosure: Open Records Decision No. 127

cc: Larry M. Tylka
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