



DAN MORALES
ATTORNEY GENERAL

Office of the Attorney General
State of Texas

September 19, 1991

Mr. Burton F. Railford
Interim Commissioner
Texas Department of Human Services
P. O. Box 149030
Austin, Texas 78714-9030

OR91-426

Dear Mr. Raiford:

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# 13129.

The Texas Department of Human Services (the department) received an open records request from the mother of an allegedly abused child for a tape recorded report of the abuse that the department received by its Child Protective Services Abuse Hotline. You contend that the tape recording is made confidential by section 34.08 of the Family Code and so must be withheld pursuant to section 3(a)(1) of the Open Records Act.

Chapter 34 of the Family Code concerns reports of, *inter alia*, physical and mental abuse to a child to local law enforcement agencies. See Family Code § 34.012(1). Section 34.08(a) of the Family Code provides:

Except as provided in Subsections (b) and (c) of this section, 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.

Subsections (b) and (c) relate to the disclosure of records concerning an investigation of an adopted child to the adoptive parents, prospective adoptive parents, or to the child upon reaching adulthood. Neither subsection is applicable to the current request.

Section 34.08(a) provides that the "reports, records, and working papers used or developed" by the department during an investigation of alleged child abuse may be disclosed only in accordance with rules adopted by the department. Although the department must notify the parents of an allegedly abused child of the *results* of its investigation, *see* 40 T.A.C. § 49.510(a)(1), there is no provision authorizing the release of the department's investigation records to the child's parents. The records at issue are therefore confidential pursuant to section 34.08(a) of the Family Code and may not be released.

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 OR91-426.

Yours very truly,



Susan Garrison
Assistant Attorney General
Opinion Committee

SG/RWP/lb

Ref.: ID# 13129

cc: Linda Moos
Manager
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