



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 12, 1991

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

OR91-638

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# 12808.

You have received a request for access to "reports issued by the state's Death Review Committees for the 1989 and 1990 calendar years and Jan. 1, 1991 to June 10, 1991." You have submitted to us for review nine reports as representative samples of the requested information. You claim that the requested information is excepted from required public disclosure by sections 3(a)(1) and 3(a)(11) of the Open Records Act.

Section 3(a)(1) excepts "information deemed confidential by law, either Constitutional, statutory, or by judicial decision." You contend that the requested information is excepted by section 3(a)(1) because section 34.08 of the Family Code provides for the confidentiality of child protective services ("CPS") case information. Section 34.08(a) provides, in part, that:

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) of this section provide for review of CPS case information by an adoptive parent of a child and by an adult who as a child was the subject of a child abuse investigation, and are thus not applicable here. Title 40, subchapter E of chapter 49 of the Texas Administrative Code provides for release of case information to law enforcement agencies, to the parents of the child, to the victim, and to the perpetrator. *See* 40 T.A.C. §§ 49.506 and 49.514. We are unaware of any other provisions that would authorize release of such information to the general public. Thus, to the extent the records requested include "reports, records, and working papers used or developed in an investigation" under chapter 34, section 34.08(a) makes such information confidential. *See* Open Records Decision Nos. 587 (1991); 440 (1986). Accordingly, we agree that such materials are excepted from required public disclosure by section 3(a)(1) of the Open Records Act. Because we resolve this issue under section 3(a)(1), we need not address the applicability of section 3(a)(11) at this time.

Because 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 OR91-638.

Yours very truly,



William Walker
Assistant Attorney General
Opinion Committee

WW/GK/lcd

Ref.: ID# 12808

cc: Ms. Deborah Tedford
Houston Chronicle
P. O. Box 4260
Houston, Texas 77210