



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

January 31, 1994

Ms. Elaine S. Brown  
Temporary Assistant City Attorney  
Legal Department  
City of Victoria  
P.O. Box 1758  
Victoria, Texas 77902-1758

OR94-016

Dear Ms. Brown:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code (former V.T.C.S. article 6252-17a).<sup>1</sup> Your request was assigned ID# 22340.

You state that the Victoria Police Department (the "department") prepared an "investigative report . . . in conjunction with an investigation by the Children's Protective Services" with regard to an alleged case of child abuse. The mother of the allegedly abused child now seeks a copy of the department's report. You contend that section 34.08 of the Family Code makes the requested report confidential and therefore the department must withhold this information from the requestor pursuant to section 552.101 of the Open Records Act.

Section 552.101 of the act protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Chapter 34 of the Family Code concerns reports of, *inter alia*, physical abuse of a child to local law enforcement agencies. *See* Fam. Code § 34.012(1)(C). 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 inves-

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<sup>1</sup>The Seventy-third Legislature repealed article 6252-17a, V.T.C.S. Acts 1993, 73d Leg., ch. 268, § 46, at 988. The Open Records Act is now codified in the Government Code at chapter 552. *Id.* § 1. The codification of the Open Records Act in the Government Code is a nonsubstantive revision. *Id.* § 47.

tigation 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.

Because you have not cited any specific regulation that the department has adopted with regard to the release of this type of information, we assume that no such rule exists. Given that assumption, the report at issue is confidential pursuant to section 34.08(a) of the Family Code. *See* Open Records Decision No. 440 (1986) at 2.

We further note that although the requestor is the mother of the allegedly abused child, she does not have a special right of access to these records under section 552.023 of the Government Code, which provides in pertinent part:

A governmental body may not deny access to information to the person, or the person's representative, to whom the information relates on the grounds that the information is considered confidential by privacy principles under this chapter but may assert as grounds for denial of access other provisions of this chapter *or other law that are not intended to protect the person's privacy interests.*

Gov't Code § 552.023(b) (emphasis added). In Open Records Decision No. 587 (1991) at 3-4 (copy enclosed) this office held that because section 34.08 is intended to protect interests other than the privacy of those to whom the records relate, those parties do not have a special right of access to the records under the predecessor statute of section 552.023. Accordingly, the department may not release these records to the requestor.

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 contact our office.

Yours very truly,



Loretta R. DeHay  
Assistant Attorney General  
Open Government Section

Ref.: ID# 22340  
ID# 23026

Enclosure: Open Records Decision No. 587  
Submitted document

cc: Ms. Gloria Trevino  
3808 N. Main, #7  
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(w/o enclosures)