



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 29, 1994

Ms. Kari A. Hernandez
Assistant City Attorney
The City of El Paso
2 Civic Center Plaza
El Paso, Texas 79901-1196

OR94-291

Dear Ms. Hernandez:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, Government Code chapter 552. We assigned your request ID# 24348.

The City of El Paso (the "city") has received a request for a certain case file involving allegations of injury to a child. You have submitted the requested information to us for review and claim that section 552.101 of the Government Code exempts it from required public disclosure.

Section 552.101 of the Government Code exempts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." You assert section 552.101 in conjunction with section 34.08 of the Family Code, which provides as follows:

(a) 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 for purposes consistent with the purposes of this code under regulations adopted by the investigating agency.

See also Open Records Decision No. 587 (1991) (holding that section 552.023 of the act cannot operate to give any individual a special right of access to information within the protection of section 34.08 of the Family Code). Subsections (b) and (c), which provide for disclosure of investigative materials to adoptive parents and prospective adoptive parents, respectively, do not appear to apply in this instance. You have not cited, nor are we aware of, any regulations adopted by the city police department consistent with

section 34.08 that permit release of the requested information in this instance.¹ Accordingly, section 552.101 of the Government Code excepts the requested information from required public disclosure.

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 this office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Government Section

LRD/GCK/rho

Enclosures: Submitted documents

Ref: ID# 24348

¹Children's Protective Services ("CPS"), however, has promulgated a regulation governing the release of CPS case information to CPS clients which provides as follows:

A child protective services client may review all information in the client's case record except the identity of the complainant, information exempted from disclosure under the Open Records Act, and information exempted under other state laws.

40 T.A.C. § 700.103. Although we do not address here whether the requestor is a client of CPS for purposes of the above-quoted regulation, we do note that the requestor may be entitled to review the information in the possession of CPS under the regulation.