



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 30, 1995

Mr. Charles E. Griffith, III
Deputy City Attorney
City of Austin
P.O. Box 1088
Austin, Texas 78767-8828

OR95-018

Dear Mr. Griffith:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 28247.

The Austin Police Department (the "department") received an open records request for copies of "all transcripts, videos, and/or any other information regarding case #87-0109199." You state that the department does not possess a copy of any transcripts or video tapes from this file, which concerns the department's 1987 investigation of an alleged sexual assault of a child. You contend that the records of the investigation are made confidential by section 34.08 of the Family Code and thus must be withheld from the public pursuant to section 552.101 of the Government Code.

Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, *statutory*, or by judicial decision." (Emphasis added.) Chapter 34 of the Family Code concerns, among other things, reports of child abuse to local law enforcement agencies. 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.

You state that the department has not adopted any regulation that would authorize the release of the requested information. Consequently, the records at issue are confidential pursuant to section 34.08(a) of the Family Code. See Open Records Decision No. 440 (1986) at 2. The department therefore must withhold the requested records in their entirety.¹

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Margaret A. Roll
Assistant Attorney General
Open Government Section

MAR/RWP/rho

Ref.: ID# 28247

Enclosures: Submitted documents

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 might be entitled to review the information in the possession of CPS under the regulation.