



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 28, 1995

Mr. Dean J. Johnson
Police Legal Advisor
Baytown Police Department
3200 North Main Street
Baytown, Texas 77521

OR95-537

Dear Mr. Johnson:

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# 31611.

The Baytown Police Department (the "department") received an open records request for a copy of the department's "Official Report" concerning the department's investigation of a report of child abuse. You contend that the requested information is deemed confidential under section 34.08 of the Family Code and thus must be withheld from the public pursuant to section 552.101 of the Government Code.¹

We agree. Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." 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.* [Emphasis added.]

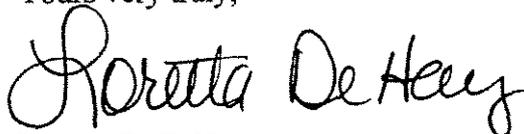
¹Because we resolve your request under section 34.08 of the Family Code, we need not address the applicability of the other exceptions you raise.

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 adopted no specific regulation with regard to the release of this type of information. Consequently, the department's records pertaining to the child abuse are confidential pursuant to section 34.08(a) of the Family Code. See Open Records Decision No. 440 (1986) at 2. Accordingly, the department must withhold the requested records.²

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 should 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,



Loretta R. DeHay
Assistant Attorney General
Open Government Section

LRD/RWP/rho

Ref.: ID# 31611

Enclosures: Submitted documents

cc: Mr. Ramie H. Griffin, Jr.
Attorney at Law
455 Milam Street
Beaumont, Texas 77701
(w/o enclosures)

²Children'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. See also *Texas Dept. of Human Services v. Benson*, 893 S.W.2d 236, 242 (Tex. App.--Austin 1995, no writ) (identity of *all* individuals who report child abuse confidential). Although we do not address here whether the requestor represents a client of CPS for purposes of the above-quoted regulation, we do note that the requestor or his client might be entitled to review the information in the possession of CPS under the regulation.