



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

August 28, 1995

Mr. Thomas Lasater Allensworth  
Senior Assistant City Attorney  
City of Grand Prairie  
317 West College Street  
Grand Prairie, Texas 75050

OR95-905

Dear Mr. Allensworth:

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# 33140.

The City of Grand Prairie (the "city") received an open records request from an attorney for records pertaining to her client's arrest for indecency with a child. You contend the requested records are excepted from required public disclosure by section 552.108 of the Government Code. Because we resolve your request on other grounds, we need not discuss the applicability of that exception.<sup>1</sup>

Although the attorney general will not ordinarily raise an exception that might apply but that the governmental body has failed to claim, *see* Open Records Decision No. 325 (1982) at 1, we will raise section 552.101 of the Government Code, which protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," because the release of confidential information could impair the rights of third parties and because the improper release of confidential information constitutes a misdemeanor. *See* Government Code § 552.352.

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:

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<sup>1</sup>In this ruling we address only whether the requested records are available to the requestor or her client as members of the general public.

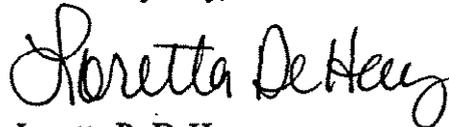
Except as provided in Subsections (b) and (c) of this section, the reports, records, and working papers used or developed in an investigation made under this chapter are confidential and may be disclosed only for purposes consistent with the purposes of this code under regulations adopted by the investigating agency. (Emphasis added.)

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 city has adopted with regard to the release of this type of information, we assume that no such regulation exists. Given that assumption, 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. Accordingly, the city must withhold these records in their entirety.

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/ch

Ref.: ID# 33140

Enclosures: Submitted documents

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