



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 26, 1996

Mr. Miles K. Risley
Assistant City Attorney
City of Victoria
P.O. Box 1758
Victoria, Texas 77902-1758

OR96-1298

Dear Mr. Risley:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 34403.

The City of Victoria (the "city") received an open records request for information regarding an incident that occurred on April 7, 1995. You inform us that you have released some of the information requested to the requestor. You contend that, pursuant to section 552.101 of the Government Code in conjunction with former section 34.08 of the Family Code, some of the related documents are confidential and must be withheld from the requestor. You have submitted for our review copies of both the released and the unreleased documents.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Former section 34.08 of the Family Code provides that the reports, records, and working papers used or developed in a child abuse investigation made under the applicable chapter are confidential and may be disclosed only for purposes consistent with the purposes of the code under regulations adopted by the investigating agency.¹ You inform us that the city

¹Title 2 of the Family Code, which includes section 34.08, was repealed in the most recent legislative session. See Act of April 20, 1995, 74th Leg., R.S., ch. 20, § 1, 1995 Tex. Sess. Law Serv. 113, 262, 282 (Vernon). Section 261.201(a) of the new Title 2 is substantively the same as section 34.08(a) of the previous Title 2. See Act of May 25, 1995, 74th Leg., R.S., ch. 741, § 93, 1995 Sess. Law Serv. 3924, 3932 (Vernon). Section 261.201 provides:

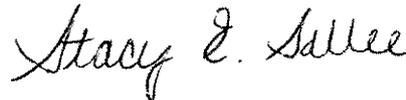
(a) The following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

has not adopted regulations which would permit the dissemination of reports regarding child abuse investigations to anyone other than to law enforcement agencies.

You state that you have forwarded some of the related documents to Children's Protective Services ("CPS") in accordance with former section 34.02 of the Family Code. You contend that the confidentiality provision of former section 34.08 continues despite the release of some of the documents to CPS. Confidential information may be transferred between governmental entities without losing its confidential character. *See* Open Records Decision No. 567 (1990). After reviewing the documents submitted that have not been released to the requestor, we conclude that they are confidential under former section 34.08 of the Family Code and, though they have been forwarded to CPS, they may not be released to the requestor pursuant to section 552.101 of the Government Code. *See* Open Records Decision No. 440 (1986) at 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 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Stacy E. Sallee
Assistant Attorney General
Open Records Division

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Ref.: ID# 34403

Enclosures: Submitted documents

(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Section 261.201 became effective, as amended, on September 1, 1995. Act of April 6, 1995, 74th Leg., R.S., ch. 20, § 1, 1995 Tex. Sess. Law Serv. 113, 262 (Vernon); Act of May 25, 1995, 74th Leg., R.S., ch. 751, §§ 93, 129, 1995 Tex. Sess. Law Serv. 3888, 3924, 3933 (Vernon). We apply the former law, as the request for information was received by the governmental body before September 1, 1995. However, we note that the result would be the same regardless of which law we applied to the requested information.