



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 18, 1995

Ms. Pat Dickinson
Records Clerk
Keller Police Department
P.O. Box 770
Keller, Texas 76244

OR95-181

Dear Ms. Dickinson:

You have asked whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. The City of Keller Police Department (the "department") received a request for "the photographs of chains used to restrain a 14-year old boy." The request was assigned ID# 32239.

You submitted to this office for review as responsive to the request one photograph. You contend that this photograph is made confidential under section 34.08(a) of the Family Code, which provides an exception for certain information in child abuse or neglect investigations:

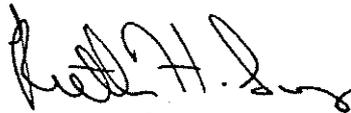
the reports, records, and working papers used or developed in an investigation made under this chapter are confidential and may be disclosed only for purposes consistent with the purposes of this code under regulations adopted by the investigating agency.

You did not explain the relationship of the photograph to a section 34.08(a) investigation. However, the requestor's letter explains that the photograph at issue is of chains used to restrain a child, thus making the photograph part of the department's section 34.08(a) investigation. Tarrant County apparently is pursuing a prosecution for injury to a child in this case.

In recognizing the close cooperation and connection between child welfare agencies and agencies responsible for investigating and enforcing criminal laws against child abuse, this office in Open Records Decision No. 587 (1991) at 3-4 stated that section 34.08 was intended to protect both privacy interests and law enforcement interests. *See* Fam. Code § 34.05 (requiring the Department of Protective and Regulatory Services to report substantiated incidents of child abuse to law enforcement officials). Sections 34.08(b) and (c) provide for disclosure of investigative materials to adoptive parents and prospective adoption parents, which situations do not appear to be applicable here. Section 34.08(a) provides that information concerning an investigation may be released only for purposes consistent with the purposes of the Family Code under regulations adopted by the investigating agency. We are aware of no regulations promulgated by the City of Keller for its police department concerning section 34.08.¹ Since it appears that the photograph at issue is part of the investigative file protected under section 34.08 and no provisions for release are applicable, the department may not release the photograph to the requestor.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,



Ruth H. Soucy
Assistant Attorney General
Open Government Section

RHS/LRD/rho

Ref.: ID# 32239

¹Although you provided no information concerning the investigation, we assume it was initiated by the Department of Protective and Regulatory Services ("DPRS"). We note that DPRS has promulgated regulations allowing access by clients to information in their own files. *See* 40 T.A.C. § 700.103.

²Since the photograph must be withheld under section 34.08(a) of the Family Code, we do not need to address your argument that the photograph may be withheld under section 552.103(a) of the Government Code.

Enclosures: Submitted photograph

cc: Ms. Christine Riser
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400 West Seventh Street
Fort Worth, Texas 78102
(w/o enclosures)