



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 28, 1995

Ms. Alejandra I. Villarreal
Escamilla & Poneck
1200 South Texas Building
603 Navarro
San Antonio, Texas 78205-1826

OR95-533

Dear Ms. Villarreal:

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# 31523.

The Harlandale Independent School District (the "district"), which you represent, received from a representative of one of the district's teachers a request for certain documents pursuant to the Open Records Act.¹ Specifically, the requestor seeks the district's records regarding allegations of child abuse against the requestor's client. You contend the requested records come under the protection of sections 552.103, 552.111, and 552.114 of the Government Code.

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

¹The requestor states that she also seeks these records on behalf of her client pursuant to "the due process clause of the Fourteenth Amendment of the U.S. Constitution." We address here only whether the general public has a right to the information under the Open Records Act; the fact that the requestor's client may have a due process interest in this information is not relevant to a determination of whether the information must be released under the Open Records Act. *See* Open Records Decision No. 118 (1976); *see also* Open Records Decision No. 454 (1986) (constitutionally required release of information to particular individual does not constitute selective disclosure prohibited by statutory predecessor to Gov't Code § 552.007).

of third parties and because the improper release of confidential information constitutes a misdemeanor. *See* Gov't Code § 552.352. Chapter 34 of the Family Code concerns reports of, among other things, child abuse to local law enforcement agencies and other agencies responsible for the protection of children. *See* Fam. Code § 34.012(1)(E). Section 34.08(a) of the Family Code provides:

Except as provided in Subsections (b) and (c)² 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 and footnote added.]

Section 34.08(a) provides that the "reports, records, and working papers used" by law-enforcement agencies during an investigation of alleged child abuse may be disclosed only in accordance with rules adopted by the respective agency. You inform this office that the district has shared all of the requested records at issue with the San Antonio Police Department, which is conducting a criminal investigation of the allegations. Given the fact that the district has provided these records to a local law enforcement agency, the records are now confidential under section 34.08 of the Family Code. Consequently, the district must withhold these records from the public in their entirety pursuant to section 552.101.³

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

²Subsections (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.

³Because we resolve your request under section 34.08 of the Family Code, we need not address the applicability of the other exceptions to public disclosure that you raised.

LRD/RWP/rho

Ref: ID# 31523

Enclosures: Submitted documents

cc: Ms. Darlene S. Cox
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(w/o enclosures)