



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

September 28, 1995

Mr. Marcus W. Norris  
Assistant City Attorney  
City of Killeen  
P.O. Box 1329  
Killeen, Texas 76540-1329

OR95-1004

Dear Mr. Norris:

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# 35092.

The City of Killeen (the "city") received a request for a copy of a police investigation into the alleged sexual assault of a six-year old child by his grandfather.<sup>1</sup> You claim that the requested information is excepted from disclosure under section 34.08 of the Family Code as applied through section 552.101 of the Government Code, and section 552.101. We have considered the exceptions you claimed and have reviewed the documents at issue.<sup>2</sup>

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

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<sup>1</sup>The request states, "I am requesting . . . certain public records, specifically: for court purposes in a child custody case and psychological review for above said case." The request appears to make no reference to any particular documents. However, for purposes of this ruling we will assume that the city's description of the requested information is accurate.

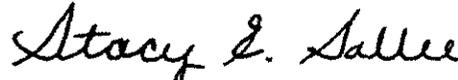
<sup>2</sup>You also ask two questions of this office. The Office of the Attorney General derives its authority to issue legal opinions from chapter 402 of the Government Code. Sections 402.042 and 402.043 of the Government Code, which authorize us to issue legal opinions, set forth the public officials who may request opinions. We are prohibited by section 402.045 of the code from giving legal advice or a written opinion to any other person. As you are not an authorized requestor under the Government Code, we are not authorized to answer your questions. However, we will address whether the requested documents are excepted from disclosure under the Open Records Act.

disclosed only for purposes consistent with the purposes of this code under regulations adopted by the investigating agency.

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.<sup>3</sup> 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.<sup>4</sup>

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,



Stacy E. Sallee

Assistant Attorney General  
Open Records Division

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Ref.: ID# 35092

Enclosures: Submitted documents

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<sup>3</sup>Children'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 Dep't of Human Services v. Benson*, 893 S.W.2d 236, 242 (Tex. App.—Austin 1995, writ requested) (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.

<sup>4</sup>You claim that section 34.08 links confidentiality with the nature of the allegation, not the investigatory result. We agree. Section 34.08 provides that so long as the investigation is made for purposes of the chapter addressing child abuse, the investigation is confidential regardless of the result. As noted in footnote 3, however, CPS regulations may provide certain individuals with a special right of access to CPS case information.