



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 8, 1995

Ms. Rhonda M. Ryemon
Assistant City Attorney
Criminal Law and Police Division
City of Dallas
City Hall
Dallas, Texas 75201

OR95-1196

Dear Ms. Ryemon:

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# 29727.

The City of Dallas (the "city") received an open records request for copies of all case reports and statements regarding the sexual assault of a juvenile. Specifically, you requested an open records decision regarding whether a police report is excepted from disclosure under section 552.101 of the Government Code. In your letter to this office, you contend that both the submitted documents labeled, "Dallas Police Department Offense Incident Report" and "Investigative Notes" respectively, contain information relating to allegations of sexual abuse of a juvenile, thus, making the requested information excepted from required public disclosure pursuant to section 34.08 of the Texas Family Code.¹ Moreover, you contend the requested information is also excepted from public disclosure pursuant to section 552.108 of the Government Code since the requested information relates to a law enforcement agency's investigation, detection, and prosecution of a crime. However, you explain that the case was suspended when the complainant could no longer be reached.

¹Title 2 of the Family Code, which includes section 34.08, was repealed in the most recent legislative session.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 34.08 of the Family Code provides, in pertinent part, the following:

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.²

Because you have not cited any specific rule that the city has adopted with regard to the release of this type of information, we assume that no such regulation exists. The submitted documents are confidential and are excepted from public disclosure pursuant to section 552.101.³

Since we have determined that you must withhold the requested information pursuant to section 552.101, we do not address your arguments raising section 552.108 as an exception to required public disclosure. We are resolving this matter with an informal letter ruling rather than with a published open records decision. The ruling is limited to the particular records at issue under the fact 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,



Margaret Roll
Assistant Attorney General
Open Records Division

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²Section 261.201(a), which now appears at chapter 741, section 93 of the Session Laws, provides:

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:

- 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.

³The result under the facts before us is the same whether the previous Family Code provision, section 34.08, or the new Family Code provision, section 261.201 is applied.

Ref: ID# 29729

Enclosures: Submitted documents

cc: Mr. Cleon A. Walden
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(w/o enclosures)