



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 13, 1995

Mr. Gary W. Smith
City Attorney
City of Greenville
P.O. Box 1049
Greenville, Texas 75403-1049

OR95-1210

Dear Mr. Smith:

You ask whether certain information is subject to required public disclosure pursuant to chapter 552 of the Government Code. Your request was assigned ID# 29709.

The City of Greenville (the "city") received an open records request from the attorney representing the mother and a juvenile for all information the police department has regarding certain allegations of indecency with the juvenile involving sexual contact. You contend that sections 552.101, 552.103, and 552.108 of the Government Code except the requested information from public disclosure.

Section 552.101 of the Government Code protects information considered to be confidential by law, either constitutional, or statutory, or by judicial decision. Chapter 34 of the Family Code addresses, among other things, reports of child abuse to local law enforcement agencies. Section 34.08(a) of the Family Code provides:

[t]he 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.¹

¹Title 2 of the Family Code, which includes section 34.08, was repealed in the most recent legislative session.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 which now appears at chapter 741, section 93 of the session laws provides:

See Open Records Decision No. 587 (1991). The records requested were developed during a child abuse investigation. The submitted documents are confidential and are excepted from required public disclosure pursuant to section 552.101.²

Since we have resolved your request pursuant to section 552.101, we do not address your arguments urging that the information requested is excepted from required public disclosure pursuant to section 552.103 and 552.108. 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 facts presented to us in this case 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,



Kathryn P. Baffes
Assistant Attorney General
Open Records Division

KPB/SAB/rho

Ref: ID# 29709

Enclosures: Submitted documents

cc: Mr. Gary D. Moore
Investigator/Paralegal
Sommerman & Moore, P.C.
3102 Oak Lawn, Suite 950
Dallas, Texas 75219-4274
(w/o enclosures)

(Footnote continued)

(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:

(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.

²The 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.