



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 28, 1995

Mr. John Steiner
Division Chief
Department of Law
City of Austin
P.O. Box 1088
Austin, Texas 78767-1088

OR95-534

Dear Mr. Steiner:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. We assigned your request an identification number, ID# 31550.

The City of Austin (the "city") has received a request for "records pertaining to CAD# 943020747." You explain that the initials "CAD" represent the phrase "Computer Aided Dispatching." You have submitted for our review a copy of the information you believe is responsive to the request; the information relates to a call the Austin Police Department received on October 29, 1994, that was dispatched to a police unit. See Gov't Code § 552.303 (requiring governmental body that requests attorney general decision on open records request to supply to attorney general specific information requested).

You point out that the CAD report discloses the name of a juvenile and that the purpose of the call was to check the welfare of the juvenile. You also state that the report reveals the name of the individual who made the call to the police department. You believe section 552.101 of the Government Code, incorporating section 34.08 of the Family Code, excepts the requested information in its entirety from required public disclosure. In the alternative, you believe section 552.101 of the Government Code, incorporating section 34.08 of the Family Code, requires the city to withhold those portions of the record revealing the name of the juvenile and the name of the informant. Finally, you believe that the informer's privilege, which this office long has held to be an aspect of section 552.101, see Open Records Decision No. 549 (1990) at 4-5, authorizes the city to withhold the name of the informant.

Section 552.101 of the Government Code excepts from required public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." As we have indicated above, you believe section 34.08 of the Family Code, which section 552.101 incorporates into the Open Records Act, requires the city to withhold the requested information from required public disclosure. We agree.

Chapter 34 of the Family Code pertains to reports of child abuse. See Fam. Code § 34.012(1) (defining "abuse"). Section 34.02(a) provides that an individual may make a nonaccusatory report of the individual's belief that a child has been or will be abused to, among other entities, any local law-enforcement agency. Section 34.08 generally provides confidentiality for such reports:

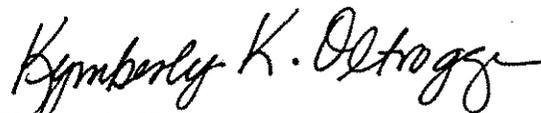
(a) Except as provided in Subsections (b) and (c) of this section, the reports, records, and working papers used or developed in an investigation made under this chapter are confidential and may be disclosed only for purposes consistent with the purposes of this code under regulations adopted by the investigating agency.

Subsections (b) and (c) do not apply in the situation you present.

You indicate that no police report was made of the October 29, 1994, phone call. Whether the phone call was investigated, the requested document contains allegations that may form the basis for an investigation regarding a child's welfare. As this office determined in Open Records Decision No. 176, information that reasonably could furnish the basis for an investigation into reported child abuse is within the scope of information made confidential by section 34.08. Open Records Decision No. 176 (1977) at 2. We therefore conclude section 34.08 of the Family Code deems the requested information, in its entirety, confidential, and section 552.101 of the Government Code thus requires the city to withhold the requested information.

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 may not be relied upon as a previous determination under section 552.301 of the Government Code regarding any other records. If you have questions about this ruling, please contact this office.

Yours very truly,



Kimberly K. Oltrogge
Assistant Attorney General
Open Government Section

Ref.: ID# 31550

Enclosures: Submitted documents

cc: Ms. Donna L. Laino
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(w/o enclosures)