



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 22, 2009

Ms. Cheryl Byles
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street, 3rd Floor
Fort Worth, Texas 76102

OR2009-13359

Dear Ms. Byles:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 355883 (Fort Worth Request No. 4481-09).

The City of Fort Worth (the "city") received a request for incident report number 09-036331. You claim that the submitted report is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information protected by other statutes. Section 261.201(a) of the Family Code provides as follows:

Except as provided by Section 261.203, 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, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Act of April 10, 1995, 74th Leg., R.S., ch. 20, § 1, sec. 261.201, 1995 Tex. Gen. Laws 113, 262, *amended by* Act of June 1, 2009, 81st Leg., R.S., ch. 779, § 1, 2009 Tex. Sess. Law Serv. 1965, 1965-66 (Vernon) (to be codified as amendment to Fam. Code § 261.201(a)). Although you state the submitted incident report pertains to the sexual assault of a child, the report itself does not reflect that there was any outcry or investigation of sexual assault. Accordingly, we conclude you failed to establish the submitted report was used or developed in an investigation by the city's police department of child abuse or neglect. *See* Fam. Code §§ 261.001(1) (defining "abuse" for purposes of Fam. Code ch. 261), .001(4) (defining "neglect" for purposes of Fam. Code ch. 261). Thus, the submitted report may not be withheld under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.

You also state you redacted certain Texas motor vehicle record information under section 552.130 of the Government Code pursuant to previous determinations issued by the city in Open Records Letter Nos. 2006-14726 (2006) and 2007-00198 (2007). *See* Gov't Code § 552.301(a); Open Records Decision No. 673 at 7-8 (2001). However, one of the driver's license numbers you redacted pertains to the requestor's wife. Because section 552.130 is based on privacy principles, the requestor may have a right of access to his wife's driver's license number under section 552.023 of the Government Code. *See* Gov't Code § 552.023(a); Open Records Decision No. 481 at 4 (1987) (governmental body may not deny access to person to whom information relates or person's authorized representative on grounds that information is considered confidential by privacy principles). Accordingly, if the requestor is the authorized representative of his wife, the Texas driver's license number we marked may not be withheld from this requestor. If the requestor is not his wife's authorized representative, the marked number must be withheld under section 552.130 of the Government Code. With the exception of the remaining Texas motor vehicle record information you redacted, the remaining information must be released.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public

information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "Bob Davis", written in a cursive style.

Bob Davis
Assistant Attorney General
Open Records Division

RSD/cc

Ref: ID# 355883

Enc. Submitted documents

cc: Requestor
(w/o enclosures)