



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 22, 2019

Mr. L. Brian Narvaez
Counsel for the City of McKinney
Brown & Hoffmeister, L.L.P.
740 East Campbell Road, Suite 800
Richardson, Texas 75081

OR2019-29770

Dear Mr. Narvaez:

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# 792612 (McKinney ID No. P012218-073119).

The City of McKinney (the "city"), which you represent, received a request for the offense reports, call sheets, and 9-1-1 audio relating to calls for service at a specified address on two specified days. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, you state Exhibit B was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2019-22758 (2019). In that ruling, we determined with the exception of the basic information, the city may withhold the submitted information under section 552.108(a)(1) of the Government Code. We have no indication there has been any change in the law, facts, or circumstances on which the previous ruling was based. Accordingly, we conclude the city may rely on Open Records Letter No. 2019-22758 as a previous determination and withhold or release Exhibit B in accordance with that ruling.¹ See Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of

¹ As we are able to make this determination, we need not address your argument against disclosure of this information.

previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

Section 552.101 of the Government Code excepts from public 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 section 261.201 of the Family Code, which provides, in part, as follows:

(a) [T]he following information is confidential, is not subject to public release under [the Act] 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.

Fam. Code § 261.201(a). You state, and we agree, Exhibit C relates to an investigation of alleged or suspected child abuse or neglect conducted by the city’s police department (the “department”). *See id.* § 101.003(a) (defining “child” for purposes of this section as person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes), 261.001(1), (4) (defining “abuse” and “neglect” for purposes of chapter 261 of the Family Code). Accordingly, we find this information is subject to section 261.201 of the Family Code. You state the department has not adopted a rule that governs the release of this type of information. Accordingly, we conclude the city must withhold Exhibit C under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute).

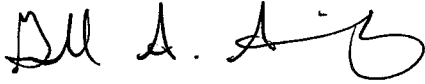
In summary, the city may rely on Open Records Letter No. 2019-22758 as a previous determination and withhold or release Exhibit B in accordance with that ruling. The city must withhold Exhibit C under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code.

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "Gerald Arismendez". The signature is stylized and cursive.

Gerald Arismendez
Assistant Attorney General
Open Records Division

GAA/rm

Ref: ID# 792612

Enc. Submitted documents

c: Requestor
(w/o enclosures)