



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 24, 2022

Ms. Savannah L. Koehler
Paralegal
City of New Braunfels
550 Landa Street
New Braunfels, Texas 78130

OR2022-01827

Dear Ms. Koehler:

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# 926219 (PD Control No. 4868-21).

The City of New Braunfels Police (the "city") received a request for information related to specified incidents. You claim portions of the submitted information are excepted from disclosure under sections 552.101 and 552.130 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note incident report number 21-42812 was the subject of a previous request for a ruling, as a result of which this office issued Open Records Letter No. 2021-35399 (2021). In that ruling we determined the city's police department must: (1) withhold certain information under section 552.101 of the Government Code in conjunction with common-law privacy; (2) withhold certain information under section 552.130 of the Government Code; and (3) release the remaining information. We have no indication the law, facts, or circumstances on which the prior ruling was based have changed. Thus, the city must continue to rely on Open Records Letter No. 2021-35399 as a previous determination and withhold or release the information in incident report number 21-42812 in accordance with that ruling. *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 previous determination exists where requested information is precisely same information as was addressed in a prior attorney general ruling, ruling is addressed to same governmental body,

¹ Although you do not raise section 552.130 of the Government Code in its brief, we understand you to raise this exception based on your markings.

and ruling concludes that information is or is not excepted from disclosure). We will consider your arguments for incident report number 21-42726, which was not at issue in the previous ruling.

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 section 261.201(a) of the Family Code, which provides as follows:

[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). Upon review, we find incident report number 21-42726 was used or developed in an investigation under chapter 261. *See id.* §§ 101.003(a) (defining “child” for purposes of section 261.201), 261.001(1), (4) (defining “abuse” and “neglect” for purposes of section 261.201). Thus, the information is within the scope of section 261.201 of the Family Code. You do not indicate you have adopted a rule that governs the release of this type of information. Therefore, we assume no such rule exists. Accordingly, the city must withhold incident report number 21-42726 under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code.² *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute).

In summary, the city must continue to rely on Open Records Letter No. 2021-35399 as a previous determination and withhold or release the information in incident report number 21-42812 in accordance with that ruling. The city must withhold incident report number 21-42726 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->

² As our ruling is dispositive, we need not address your arguments against disclosure of this information.

[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,

Tim Neal
Assistant Attorney General
Open Records Division

TN/ba

Ref: ID# 926219

Enc. Submitted documents

c: Requestor
(w/o enclosures)