



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 9, 2022

Ms. Susan E. Tennyson
Open Records Attorney
Texas Department of Family and Protective Services
P.O. Box 149030
Austin, Texas 78714-9030

OR2022-27662

Dear Ms. Tennyson:

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# 972108 (DFPS Reference No. R002431-062322).

The Texas Department of Family and Protective Services (the "department") received nine requests from the same requestor for specified training materials and guidelines; specified contracts; records regarding specified types of surgeries performed upon children; e-mails to or from twenty five named individuals and entities; communications in the possession of the commissioner pertaining to a specified directive, a specified letter, and six specified terms; and communications pertaining to the specified letter. You state you will withhold some information pursuant to Open Records Letter No. 2003-5590 (2003).¹ You state the department does not have information pertaining to portions of the requests.² You state the department will release some of the requested information. You claim some of the

¹ Open Records Letter No. 2003-5590 is a previous determination authorizing the department to withhold, without the necessity of seeking a decision from this office, the records concerning an investigation of an allegation of abuse or neglect of a child and the records used or developed in providing services as a result of such an investigation under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code, unless the department's rules permit the department to release requested records to a particular requestor.

² We note the Act does not require a governmental body to disclose information that did not exist at the time the governmental body received the request for information. *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

requested information is subject to previous rulings issued by our office. We have considered your arguments and reviewed the submitted information.

You state some of the requested information was the subject of previous requests for information, in response to which this office issued Open Records Letter Nos. 2021-31869 (2021) and 2022-14829 (2022). In Open Records Letter No. 2021-31869, we determined the following: (1) the department may withhold the information you marked under section 552.107(1) of the Government Code; (2) the department may withhold the information you marked under section 552.111 of the Government Code; and (3) the department must release the remaining information at issue. In Open Records Letter No. 2022-14829, we determined the following: (1) the department may continue to rely Open Records Letter No. 2021-31869 as a previous determination and withhold or release the requested information in accordance with that ruling; (2) the department must withhold certain information we marked under section 552.101 of the Government Code in conjunction with common-law privacy; (3) the department may withhold the information you marked under section 552.103 of the Government Code; (4) the department may withhold the information you marked under section 552.107(1) of the Government Code; (5) the department may withhold the information you marked under section 552.111 of the Government Code; and (6) the department must release the remaining information at issue. We have no indication the law, facts, and circumstances on which the prior rulings were based have changed. Thus, the department must continue to rely Open Records Letter Nos. 2021-31869 and 2022-14829 as previous determinations and withhold or release the requested information in accordance with those rulings. *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 prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

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,

Jennifer Copeland
Assistant Attorney General
Open Records Division

JC/mo

Ref: ID# 972108

Enc. Submitted documents

c: Requestor
(w/o enclosures)