



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 22, 2019

Mr. Jonathan Miles
Open Records Attorney
Texas Health and Human Services Commission
P.O. Box 13247
Austin, Texas 78711-3247

OR2019-05073

Dear Mr. Miles:

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# 751600 (HHSC Reference No. 17033).

The Texas Health and Human Services Commission (the "commission") received three requests from the same requestor for the following (1) applications and resumes for eight named employees of Terrell State Hospital, (2) the 2017 and 2018 budgets for Terrell State Hospital, and (3) the last two Joint Commission on Accreditation of Healthcare Organization reports filed with the commission that evaluated and subsequently accredited Terrell State Hospital.¹ You inform us the commission will redact some information subject to section 552.117(a)(1) of the Government Code pursuant to section 552.024 of the Government Code, motor vehicle record information under section 552.130(c) of the Government Code, and

¹As you have not submitted copies of the requests for information, we take our description from your brief.

certain information pursuant to Open Records Decision No. 684 (2009).² You state the commission will release some of the requested information. You claim the submitted information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

We must address the commission's obligations under the Act. Pursuant to section 552.301(e), a governmental body is required to submit to this office within fifteen business days of receiving an open records request (1) written comments stating the reasons why the claimed exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, (3) a signed statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. Gov't Code § 552.301(e). You state the commission received the three requests for information on November 20, 2018. You also inform us the commission was closed for a holiday on November 22, 2018, and November 23, 2018, and closed for a skeleton crew day on December 5, 2018. This office does not count the date the request was received or holidays, including skeleton crew days observed by a governmental body, for the purpose of calculating a governmental body's deadlines. However, as of the date of this letter, the commission has failed to submit copies of the requests for information. Consequently, we find the commission failed to comply with section 552.301 of the Government Code.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless there is a compelling reason to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ). Although you claim the submitted information is excepted from disclosure under section 552.103 of the Government Code, we find you have failed to establish a compelling reason to address your claim under

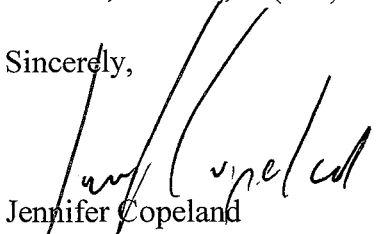
²Section 552.024 of the Government Code authorizes a governmental body to redact from public release a current or former official or employee's home address and telephone number, emergency contact information, social security number, and family member information excepted from disclosure under section 552.117(a)(1) without the necessity of requesting a decision from this office under the Act, if the employee timely elected to withhold such information. *See* Gov't Code §§ 552.024(a)-(c), 117(a)(1). Section 552.130(c) of the Government Code allows a governmental body to redact the information described in section 552.130(a) without the necessity of seeking a decision from the attorney general. *Id.* § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e). Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold specific categories of information, including an e-mail address of a member of the public under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision.

this exception. Therefore, the commission may not withhold any portion of the submitted information under section 552.103 of the Government Code. As no further exceptions have been raised, the commission must release the submitted information.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Jennifer Copeland
Assistant Attorney General
Open Records Division

JC/mo

Ref: ID# 751600

Enc. Submitted documents

c: Requestor
(w/o enclosures)