



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 12, 2019

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

OR2019-06814

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# 754390 (Reference No. 17193).

The Health and Human Services Commission (the "commission") received a request for information pertaining to a specified investigation. You state the commission will redact information protected by section 552.117(a)(1) of the Government Code pursuant to section 552.024(c)(2) of the Government Code and dates of birth pursuant to Open Records Letter No. 2017-01942 (2017).¹ You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. Additionally, you state the release of the submitted information may implicate the interests of the Williamson County Sheriff's Office (the "sheriff's office") and you have notified the sheriff's office of its right to submit

¹Section 552.024(c)(2) of the Government Code authorizes a governmental body to redact information protected by section 552.117(a)(1) of the Government Code without the necessity of requesting a decision under the Act if the current or former employee or official to whom the information pertains timely chooses not to allow public access to the information. *See* Gov't Code § 552.024(c)(2). Open Records Letter No. 2017-01942 is a previous determination issued to the commission authorizing it to withhold the dates of birth of living current and former employees of the commission under section 552.102 of the Government Code without seeking a ruling from this office. *See* Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301 (a) of the Government Code).

comments to this office as to why the submitted information should not be released.² *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). 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." *Id.* § 552.101. This section encompasses information protected by other statutes, including section 531.1021 of the Government Code, which provides, in relevant part:

(g) All information and materials subpoenaed or compiled by [the Commission's Office of the Inspector General (the "OIG")] in connection with an audit or investigation or by the office of the attorney general in connection with a Medicaid fraud investigation are confidential and not subject to disclosure under [the Act], and not subject to disclosure, discovery, subpoena, or other means of legal compulsion for their release to anyone other than the [OIG] or the attorney general or their employees or agents involved in the audit or investigation conducted by the [OIG] or the attorney general, except that this information may be disclosed to the state auditor's office, law enforcement agencies, and other entities as permitted by other law.

(h) A person who receives information under Subsection (g) may disclose the information only in accordance with Subsection (g) and in a manner that is consistent with the authorized purpose for which the person first received the information.

Id. § 531.1021(g), (h). You state the submitted information was compiled by the OIG in connection with an investigation concerning alleged fraud and abuse in the provision of health and human services. Based on your representation and our review, we find the commission must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 531.1021(g) of the Government 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 <http://www.texasattorneygeneral.gov/open/>

²As of the date of this letter, we have not received any comments from the sheriff's office explaining why any of the submitted information should not be released.

[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,



Jahna Ward
Assistant Attorney General
Open Records Division

JW/eb

Ref: ID# 754390

Enc. Submitted documents

c: Requestor
(w/o enclosures)

