



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 3, 2020

Mr. Joe Zapata
Administrative Supervisor
City of Houston
1200 Travis, 10TH Floor
Houston, Texas 77002-6000

OR2020-15230

Dear Mr. Zapata:

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# 831452 (ORU# 20-02997).

The Houston Police Department (the "department") received a request for three categories of information pertaining to a specified division of the department. You state the department will rely on Open Records Letter No. 2020-13818 (2020) and withhold some of the requested information in accordance with that ruling.¹ You claim the submitted information is excepted from disclosure under section 552.107 of the Government Code.² We have considered the exception you claim and reviewed the submitted information.

Initially, we note some of the submitted information is not responsive to the present request because it was created after the date of the receipt of the instant request. This ruling does

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 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).

² We note although you raise sections 552.101, 552.108, 552.111, and 552.152 of the Government Code, you make no arguments to support these assertions. Therefore, we assume you have withdrawn your claim that these exceptions apply to the submitted information. See Gov't Code §§ 552.301, .302.

not address the public availability of the non-responsive information and the department need not release it in response to this request.

We note the requestor is Texas State Senator Paul Bettencourt (“Senator Bettencourt”). Section 552.008 of the Government Code grants access to requested information, including confidential information, to individual members, agencies, or committees of the Texas Legislature. Section 552.008 provides, in part, as follows:

(a) The [Act] does not grant authority to withhold information from individual members, agencies, or committees of the legislature to use for legislative purposes.

(b) A governmental body on request by an individual member, agency, or committee of the legislature shall provide public information, including confidential information, to the requesting member, agency, or committee for inspection or duplication in accordance with this chapter if the requesting member, agency, or committee states that the public information is requested under this chapter for legislative purposes. A governmental body, by providing public information under this section that is confidential or otherwise excepted from required disclosure under law, does not waive or affect the confidentiality of the information for purposes of state or federal law or waive the right to assert exceptions to required disclosure of the information in the future. The governmental body may require the requesting individual member of the legislature, the requesting legislative agency or committee, or the members or employees of the requesting entity who will view or handle information that is received under this section and that is confidential under law to sign a confidentiality agreement that covers the information and requires that:

(1) the information not be disclosed outside the requesting entity, or within the requesting entity for purposes other than the purpose for which it was received;

(2) the information be labeled as confidential;

(3) the information be kept securely; or

(4) the number of copies made of the information or the notes taken from the information that implicate the confidential nature of the information be controlled, with all copies or notes that are not destroyed or returned to the governmental body remaining confidential and subject to the confidentiality agreement.

...

(c) This section does not affect:

- (1) the right of an individual member, agency, or committee of the legislature to obtain information from a governmental body under other law, including under the rules of either house of the legislature;
- (2) the procedures under which the information is obtained under other law; or
- (3) the use that may be made of the information obtained under other law.

Gov't Code § 552.008(a)-(b), (c). In his request letter, Senator Bettencourt represents his request was made pursuant to section 552.008 of the Government Code. Accordingly, we understand this request was made for legislative purposes. Thus, section 552.008 is applicable to the submitted information. Although the submitted information would be confidential with regard to the general public under the provisions of law cited by the department, we determine the transfer of information pursuant to section 552.008 does not amount to public disclosure of the information at issue. *Cf.* Open Records Decision No. 666 (municipality's disclosure to a municipally-appointed citizen advisory board does not constitute a release to the public); Attorney General Opinion JM-119 (1983) (statutory predecessor) (for purposes of the Act, official of a governmental body who, in an official capacity, requests information held by the governmental body, does not act as a member of the public in doing so). We further note section 552.008 permits a governmental body to require a member of the legislature to sign a confidentiality agreement for the protection of information obtained pursuant to this section. *See* Gov't Code § 552.008(b). In addition, the release of the information at issue under section 552.008 in this situation does not waive or affect the confidentiality of the information for purposes of state or federal law or waive the department's right to assert exceptions to required public disclosure of this information in the future. *See id.*; *see also id.* § 552.352. Upon review, therefore, we conclude the department must provide the submitted information to the requestor in accordance with section 552.008 of the Government Code. *See id.* § 552.008(b). Because we make our determination under section 552.008, we need not address the submitted argument.

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,

Ashley Crutchfield
Assistant Attorney General
Open Records Division

AC/mo

Ref: ID# 831452

Enc. Submitted documents

c: Requestor
(w/o enclosures)