



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 29, 2010

Ms. Carolyn Foster
Deputy General Counsel
Parkland Health & Hospital System
5201 Harry Hines Boulevard
Dallas, Texas 75235

OR2010-16436

Dear Ms. Foster:

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# 402653.

The Dallas County Hospital District d/b/a Parkland Health & Hospital System ("Parkland") received a request for "the last known addresses and phone numbers" for four former Parkland employees. You claim that the requested information is excepted from disclosure under section 552.117 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we address Parkland's procedural obligations under the Act. Pursuant to section 552.301(e) of the Government Code, a governmental body is required to submit to this office within fifteen business days of receiving the request (1) general written comments stating the reasons why the stated 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. *See Gov't Code § 552.301(e)*. You state that Parkland received the present request for information on September 22, 2010. However, you did not submit the requested information until October 27, 2010.

Consequently, we find that Parkland failed to comply with the procedural requirements of section 552.301.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the requirements of section 552.301 results in the legal presumption the requested information is public and must be released unless a compelling reason exists to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (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) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to section 552.302); *see also* Open Records Decision No. 630 (1994). Generally, a compelling reason to withhold information exists where some other source of law makes the information confidential or where third party interests are at stake. Open Records Decision No. 150 at 2 (1977). Because section 552.117 can provide a compelling reason to withhold information, we will consider whether any of the requested information must be withheld under that exception.

Section 552.117(a)(1) excepts the home address and telephone number, social security number, and family member information of a current or former employee or official of a governmental body who requests that this information be kept confidential under section 552.024. The determination of whether a particular item of information is protected by section 552.117(a)(1) must be made at the time of the governmental body's receipt of the request for the information. *See* Open Records Decision No. 530 at 5 (1989). Thus, a governmental body may only withhold information under section 552.117(a)(1) on behalf of a current or former employee or official who made a request for confidentiality under section 552.024 prior to the date of its receipt of the request for the information. The governmental body may not withhold information under section 552.117(a)(1) on behalf of a current or former employee or official who did not make a timely election for confidentiality under section 552.024. You inform us the employees at issue elected, prior to Parkland's receipt of the instant request, to keep certain information confidential. Therefore, Parkland must withhold the requested information under section 552.117(a)(1) 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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "Cindy Nettles". The signature is fluid and cursive, with a horizontal line above the name.

Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 402653

Enc. Submitted documents

c: Requestor
(w/o enclosures)