



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 3, 2011

Ms. Nneka C. Egbuniwe
Deputy General Counsel
Parkland Health & Hospital System
5201 Harry Hines Boulevard
Dallas, Texas 75235

OR2011-03032

Dear Ms. Egbuniwe:

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# 411129.

The Dallas County Hospital District d/b/a Parkland Health & Hospital System ("Parkland") received a request for a list of Parkland employees who are receiving awards under the 2010 Pay for Performance Plan, including each employee's name, title, salary for 2010, and the amount received under the Pay for Performance Plan for 2010. You state Parkland has released some information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.150 and 552.151 of the Government Code. We have considered the claimed exceptions and reviewed the submitted representative sample of information.¹

Initially, we note some of the requested information was the subject of previous requests for information, as a result of which this office issued Open Records Letter Nos. 2010-02881 (2010) and 2010-16352 (2010). In those decisions, we ruled that Parkland must withhold

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

portions of the information at issue under section 552.150 of the Government Code. As we have no indication that the law, facts, and circumstances on which the prior rulings were based have changed, Parkland must continue to rely on these rulings as previous determinations and withhold the information we ruled is subject to section 552.150 in accordance with Open Records Letter Nos. 2010-02881 and 2010-16352. *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 a prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). For the remaining information not subject to Open Records Letter Nos. 2010-02881 and 2010-16352, we will consider your arguments against disclosure.

Section 552.150 of the Government Code provides as follows:

(a) Information in the custody of a hospital district that relates to an employee or officer of the hospital district is excepted from the requirements of Section 552.021 if:

(1) it is information that, if disclosed under the specific circumstances pertaining to the individual, could reasonably be expected to compromise the safety of the individual, such as information that describes or depicts the likeness of the individual, information stating the times that the individual arrives at or departs from work, a description of the individual's automobile, or the location where the individual works or parks; and

(2) the employee or officer applies in writing to the hospital district's officer for public information to have the information withheld from public disclosure under this section and includes in the application:

(A) a description of the information; and

(B) the specific circumstances pertaining to the individual that demonstrate why disclosure of the information could reasonably be expected to compromise the safety of the individual.

(b) On receiving a written request for information described in an application submitted under Subsection (a)(2), the officer for public information shall:

(1) request a decision from the attorney general in accordance with Section 552.301 regarding withholding the information; and

(2) include a copy of the application submitted under Subsection (a)(2) with the request for the decision.

Gov't Code § 552.150. Section 552.150 provides that information held by a hospital district relating to a hospital district employee or officer is excepted from public disclosure provided (1) it is information that, if disclosed under the specific circumstances pertaining to the individual, could reasonably be expected to compromise the safety of the individual; and (2) the employee or officer makes a written application in accordance with section 552.150(a)(2) to the hospital district's officer for public information to have the information withheld from public disclosure under this section. *Id.* The individual's application must include a description of the information at issue and the specific circumstances pertaining to the individual that demonstrate why disclosure of the information could reasonably be expected to compromise his or her safety. *Id.*

Parkland has provided this office with copies of written applications sent to Parkland's officer for public information from eleven employees who describe the information at issue, explain their specific circumstances and concerns, and ask that their information not be publicly disclosed. Upon review and consideration of the applications provided by each employee who sought the protection of information, we determine the employees whose information was not subject to Open Records Letter Nos. 2010-02881 and 2010-16352 have described specific circumstances pertaining to the individual establishing that release of their names could "reasonably be expected to compromise the safety of the individual." *See id.* § 552.150(a)(1). Therefore, Parkland must withhold the names of these employees, which we have marked, under section 552.150 of the Government Code. In addition, to the extent that these employees' job titles reveal their identities, as, for example, when there is only one position with that title, Parkland must also withhold that job title under section 552.150. However, we find none of the eleven employees have established that release of the remaining information at issue could "reasonably be expected to compromise the safety of the individual." *See id.*

Parkland also raises section 552.151 of the Government Code, which provides as follows:

Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from the requirements of Section 552.021 if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm.

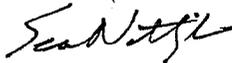
Id. § 552.151. Upon review, we find you have failed to demonstrate that release of the remaining information at issue would subject the employees to a substantial threat of physical harm. Therefore, we conclude section 552.151 is inapplicable to the remaining information at issue, and Parkland may not withhold any portion of the remaining information on that basis.

In summary, Parkland must continue to withhold the information we ruled is subject to section 552.150 in accordance with Open Records Letter Nos. 2010-02881 and 2010-16352. Parkland must withhold the names of those employees we have marked under section 552.150 of the Government Code. In addition, to the extent that these employees' job titles reveal their identities, Parkland must also withhold that job title under section 552.150. The remaining information must be released to the requestor.

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,



Sean Nottingham
Assistant Attorney General
Open Records Division

SN/eeg

Ref: ID# 411192

Enc. Submitted documents

c: Requestor
(w/o enclosures)