



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

This ruling has been modified by court action.
The ruling and judgment can be viewed in PDF
format below.



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 30, 2012

Mr. Ryan S. Henry and Ms. Erin A. Higginbotham
Denton, Navarro, Rocha & Bernal, P.C.
2500 West William Cannon Drive, Suite 609
Austin, Texas 78745

The ruling you have requested has been amended as a result of litigation and has been attached to this document.

OR2012-04670

Dear Mr. Henry and Ms. Higginbotham:

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# 449259.

The Dallas County Hospital District d/b/a Parkland Health and Hospital System (the "district") received a request for all records related to fifteen sexual abuse investigations discussed between three district officials and the requestor and another individual.¹ You state you will redact certain information pursuant to Open Records Decision No. 684 (2009).² You claim some of the submitted information is excepted from disclosure under sections 552.101, 552.102, 552.107, 552.108, 552.111, and 552.139 of the Government Code. We have considered your arguments and reviewed the submitted information. We

¹You inform us, and provide documentation showing, the district sought and received clarification of the request. See Gov't Code § 552.222(b) (stating that if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used); *City of Dallas v. Abbott*, 304 S.W.3d 380 (Tex. 2010) (holding that when governmental entity, acting in good faith, requests clarification of unclear or overbroad request for public information, ten-business-day period to request attorney general opinion is measured from date the request is clarified or narrowed).

²We note Open Records Decision No. 684 (2009) is a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including W-4 forms under section 552.101 in conjunction with section 6103(a) of title 26 of the United States Code, a form I-9 and attachments under section 552.101 in conjunction with section 1324a of title 8 of the United States Code, and e-mail addresses of members of the public under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision.

have also received and considered comments from a third party objecting to the release of some of the requested information. *See Gov't Code § 552.304* (interested party may submit comments stating why information should or should not be released).

Initially, we note the requestor has excluded patient medical records, patient identifiers in other records, caregivers' dates of birth, relatives, addresses, personal telephone numbers, or social security information from the request. Accordingly, this information is not responsive to the present request. This ruling does not address the public availability of the submitted information that is not responsive to this request, and the district need not release that information to the requestor.

You inform us the submitted information includes security codes and computer passwords. The Act is applicable to "public information," which section 552.002 of the Government Code defines as "information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business. . . by a governmental body[.]" *Id.* § 552.002(a)(1). In Open Records Decision No. 581 (1990), this office determined that certain computer information, such as source codes, documentation information, and other computer programming, that has no significance other than its use as a tool for the maintenance, manipulation, or protection of public property is not the kind of information made public under section 552.021 of the Government Code. Based on the reasoning in this decision and our review of the information at issue, we determine the security codes and computer passwords we have marked do not constitute public information under section 552.002 of the Government Code. Accordingly, the security codes and computer passwords are not subject to the Act, and the district is not required to release this information, which we have marked, in response to this request.³ However, we conclude that the remaining information is public information as defined by section 552.002 and is subject to disclosure under the Act. We will therefore address your arguments regarding disclosure of this information.

You inform us Exhibits F-1, F-2, and F-3 were the subject of previous requests for information, in response to which this office issued Open Records Letter Nos. 2011-09901 (2011), 2011-18844 (2011), and 2011-19210 (2011), respectively. The district also informs us there are lawsuits pending against the Office of the Attorney General that pertain to portions of the previously ruled upon information: *Dallas County Hosp. Dist. d/b/a Parkland Health & Hosp. Sys. v. Greg Abbott, Attorney Gen. of Tex.*, No. D-1-GN-11-003959 (126th Dist. Ct., Travis County, Tex.) and *Dallas County Hosp. Dist. d/b/a Parkland Health & Hosp. Sys. v. Greg Abbott, Attorney Gen. of Tex.*, No. D-1-GN-12-000225 (353rd Dist. Ct., Travis County, Tex.). Accordingly, with regard to the information at issue in these lawsuits, we allow the trial court to determine whether the types of information at issue must be released to the public. With regard to information in the current request that is identical to information previously ruled upon by this office and is not at issue in the aforementioned

³As our ruling is dispositive, we do not address your argument to withhold this information under the Act.

lawsuits, we conclude, as you have not indicated the law, facts, and circumstances on which the prior rulings were based have changed, the district must continue to rely on those rulings as previous determinations and withhold or release the previously ruled upon information in accordance with those rulings.⁴ *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). To the extent the requested information was not the subject of the prior rulings, we will consider whether or not the information is excepted under the Act.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. Section 552.101 encompasses information made confidential by other statutes, such as section 1304(b) of title 8 of the United States Code. Section 1304(b) of title 8 of the United States Code addresses the confidentiality of the registration documentation of aliens under section 1301 of the United States Code and provides:

All registration and fingerprint records made under the provisions of this subchapter shall be confidential, and shall be made available only

- (1) pursuant to section 1357(f)(2) of this title, and
- (2) to such persons or agencies as may be designated by the Attorney General.

8 U.S.C. § 304(b). Permanent resident cards, employment authorization cards, and arrival/departure records are listed in section 264.1(b) of title 8 of the Code of Federal Regulations as documents that constitute evidence of registration. 8 C.F.R. § 264.1(b). We, therefore, conclude the submitted permanent resident cards, employment authorization cards, and arrival/departure records are registration records subject to the confidentiality provision of section 1304(b) of title 8 of the United States Code and must be withheld under section 552.101 of the Government Code.⁵

Section 552.101 also encompasses the federal Fair Credit Reporting Act (the “FCRA”), 15 U.S.C. § 1681 *et seq.* Section 1681b of the FCRA permits a consumer reporting agency to furnish a consumer report to a person that the consumer reporting agency has reason to believe intends to use the information for employment purposes. *See* 15 U.S.C. § 1681b(a)(3)(B); *see also id.* § 1681a(b), (d) (defining “person” and “consumer report”). Section 1681b further provides that “[a] person shall not use or obtain a consumer report for

⁴As our ruling is dispositive, we need not address your remaining arguments for this information.

⁵As our ruling is dispositive, we need not address your remaining argument for this information.

any purpose unless . . . the consumer report is obtained for a purpose for which the consumer report is authorized to be furnished under this section; and . . . the purpose is certified in accordance with section 1681e of this title by a prospective user of the report through a general or specific certification.” *Id.* § 1681b(f). Section 1681e provides for the maintenance of procedures by consumer reporting agencies under which prospective users of consumer reports must identify themselves, certify the purposes for which they seek information, and certify that the information will be used for no other purpose. *See id.* § 1681e(a); *see also* Open Records Decision No. 373 at 2 (1983) (stating that federal law strictly limits distribution of consumer credit reports by credit reporting agencies). Upon review, we find the consumer report furnished to the district by a consumer agency, which we have marked, must be withheld under section 552.101 of the Government Code in conjunction with the FCRA.⁶

Section 552.101 also encompasses the Medical Practice Act (the “MPA”), subtitle B of title 3 of the Occupations Code. The MPA governs access to medical records. *See* Occ. Code §§ 151.001-163.160. Section 159.002 of the MPA provides, in part:

(a) A communication between a physician and a patient, relative to or in connection with any professional services as a physician to the patient, is confidential and privileged and may not be disclosed except as provided by this chapter.

(b) A record of the identity, diagnosis, evaluation, or treatment of a patient by a physician that is created or maintained by a physician is confidential and privileged and may not be disclosed except as provided by this chapter.

(c) A person who receives information from a confidential communication or record as described by this chapter, other than a person listed in Section 159.004 who is acting on the patient’s behalf, may not disclose the information except to the extent that disclosure is consistent with the authorized purposes for which the information was first obtained.

Id. § 159.002(a)-(c). This office has concluded the protection afforded by section 159.002 extends only to records created by either a physician or someone under the supervision of a physician. *See* Open Records Decision Nos. 487 (1987), 370 (1983), 343 (1982). Information subject to the MPA includes both medical records and information obtained from those medical records. *See id.* §§ 159.002, .004; Open Records Decision No. 598 (1991). Medical records must be released upon receipt of the patient’s signed, written consent as provided by sections 159.004 and 159.005 of the Occupations Code. Any subsequent release of medical records must be consistent with the purposes for which the governmental body obtained the records. *See* Occ. Code § 159.002(c); Open Records Decision No. 565 at 7 (1990). Upon review, we find the information we have marked

⁶As our ruling is dispositive, we need not address your remaining arguments for this information.

consists of records of the identity, diagnosis, evaluation, or treatment of a patient by a physician that were created by a physician. Therefore, the marked information constitutes confidential medical records and may be released only in accordance with the MPA.⁷ However, we find the district has failed to demonstrate how the remaining information constitutes records of the identity, diagnosis, evaluation, or treatment of a patient by a physician that were created or are maintained by a physician or information obtained from a patient's medical records. Accordingly, none of the remaining information consists of medical records subject to the MPA and the district may not withhold any of the remaining information under section 552.101 on that basis.

Section 552.101 of the Government Code also encompasses section 241.152 of the Health and Safety Code, which states, in relevant part:

- (a) Except as authorized by Section 241.153, a hospital or an agent or employee of a hospital may not disclose health care information about a patient to any person other than the patient or the patient's legally authorized representative without the written authorization of the patient or the patient's legally authorized representative.

Health & Safety Code § 241.152(a). Section 241.151(2) of the Health and Safety Code defines "health care information" as "information . . . recorded in any form or medium that identifies a patient and relates to the history, diagnosis, treatment, or prognosis of a patient." *Id.* § 241.151(2). We note the requestor excluded patient identifiers and patient medical records from his request. The remaining information does not identify a patient and relate to the history, diagnosis, treatment, or prognosis of an identified patient. Thus, none of the remaining information may be withheld under section 552.101 of the Government Code in conjunction with section 241.152 of the Health and Safety Code.

Section 552.101 also encompasses section 181.006 of the Health and Safety Code. Section 181.006 states "[f]or a covered entity that is a governmental unit, an individual's protected health information:

- (1) includes any information that reflects that an individual received health care from the covered entity; and
- (2) is not public information and is not subject to disclosure under [the Act].

Id. § 181.006. Section 181.001(b)(2) defines "[c]overed entity," in part, as "any person who:

- (A) for commercial, financial, or professional gain, monetary fees, or dues, or on a cooperative, nonprofit, or pro bono basis, engages, in whole or in part, and with real or constructive knowledge, in the practice of assembling,

⁷As our ruling is dispositive, we need not address your remaining arguments for this information.

collecting, analyzing, using, evaluating, storing, or transmitting protected health information. The term includes a business associate, health care payer, governmental unit, information or computer management entity, school, health researcher, health care facility, clinic, health care provider, or person who maintains an Internet site[.]

Id. § 181.001(b)(2). You inform us the health care services the district engages in demonstrates that it is a covered entity. You indicate the district maintains health information for the individuals it serves, including information showing that an individual received medical care. You indicate the information collected, used, and stored by the district consists of protected health information. Thus, you claim the district is a covered entity for the purposes of section 181.006 of the Health and Safety Code.

In order to determine whether the district is a covered entity for the purposes of section 181.006 of the Health and Safety Code, we must address whether the district engages in the practice of collecting, analyzing, using, evaluating, storing or transmitting protected health information. Section 181.001 states that “[u]nless otherwise defined in this chapter, each term that is used in this chapter has the meaning assigned by the Health Insurance Portability and Accountability Act and Privacy Standards [‘HIPAA’], 42 U.S.C. §§ 1320d 1320d-8.” *Id.* § 181.001(a). Accordingly, as chapter 181 does not define “protected health information,” we turn to HIPAA’s definition of the term. HIPAA defines “protected health information” as individually identifiable health information:

(1) Except as provided in paragraph (2) of this definition, that is:

- (i) Transmitted by electronic media;
- (ii) Maintained in electronic media; or
- (iii) Transmitted or maintained in any other form or medium.

(2) Protected health information excludes individually identifiable health information in:

- (iii) Employment records held by a covered entity in its role as employer.

45 C.F.R. § 160.103. The information at issue concerns an investigation into the conduct of a district employee in the course of his employment. Accordingly, we find these records are the employment records of the individual that are being held by the district in its role as an employer. Thus, you have failed to demonstrate these records are confidential under section 181.006 of the Health and Safety Code, and the district may not withhold any of the remaining information you have marked under section 552.101 on that ground.

Section 552.101 of the Government Code also encompasses section 411.083 of the Government Code, which pertains to criminal history record information (“CHRI”) generated by the National Crime Information Center or by the Texas Crime Information Center. Title 28, part 20 of the Code of Federal Regulations governs the release of CHRI that state agencies obtain from the federal government or other states. *See* Open Records Decision No. 565 (1990). The federal regulations allow each state to follow its individual law with respect to CHRI it generates. *See id.* Section 411.083 of the Government Code deems confidential CHRI that the Department of Public Safety (“DPS”) maintains, except DPS may disseminate this information in accordance with chapter 411, subchapter F of the Government Code. *See* Gov’t Code § 411.083. Sections 411.083(b)(1) and 411.089(a) authorize a criminal justice agency to obtain CHRI; however, a criminal justice agency may only release CHRI to another criminal justice agency for a criminal justice purpose. *See id.* § 411.089(b)(1). Other entities specified in chapter 411 of the Government Code are entitled to obtain CHRI from DPS or another criminal justice agency; however, those entities may not release CHRI except as provided by chapter 411. *See generally id.* §§ 411.090-.127. Similarly, any CHRI obtained from DPS or any other criminal justice agency must be withheld under section 552.101 of the Government Code in conjunction with Government Code chapter 411, subchapter F. Upon review, we find none of the remaining information consists of CHRI for purposes of chapter 411; thus, the district may not withhold any of the remaining information under section 552.101 in conjunction with section 411.083 of the Government Code.

You also raise common-law privacy for portions of the remaining information. Section 552.101 of the Government Code also encompasses the common-law right of privacy, which protects information if it (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be established. *Id.* at 681-82. The type of information considered intimate or embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683. This office has found that some kinds of medical information or information indicating disabilities or specific illnesses are excepted from required public disclosure under common-law privacy. *See* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). Upon review, we agree a portion of the remaining information, which we have marked, is highly intimate or embarrassing and not of legitimate public concern. Therefore, the district must withhold this information pursuant to section 552.101 of the Government Code in conjunction with common-law privacy. However, we find you have not demonstrated the remaining information is highly intimate or embarrassing and not a matter of legitimate public interest. Therefore, the remaining information may not be withheld under section 552.101 in conjunction with common-law privacy.

You also raise section 552.102 of the Government Code in conjunction with the common-law privacy test, which is discussed above. See *Indus. Found.*, 540 S.W.2d at 685. In *Hubert v. Harte-Hanks Texas Newspapers, Inc.*, 652 S.W.2d 546, 549–51 (Tex. App.—Austin 1983, writ ref'd n.r.e.), the Third Court of Appeals ruled the privacy test under section 552.102(a) is the same as the *Industrial Foundation* privacy test. However, the Texas Supreme Court has disagreed with *Hubert's* interpretation of section 552.102(a) and held its privacy standard differs from the *Industrial Foundation* test under section 552.101. *Tex. Comptroller of Pub. Accounts v. Attorney Gen. of Tex.*, 354 S.W.3d 336 (Tex. 2010). Thus, we conclude the remaining information is not excepted under section 552.102(a) and may not be withheld on that basis.

You also raise section 552.139 of the Government Code for some of the remaining information. Section 552.139 provides:

(a) Information is excepted from [required public disclosure] if it is information that relates to computer network security, to restricted information under Section 2059.055 [of the Government Code], or to the design, operation, or defense of a computer network.

(b) The following information is confidential:

(1) a computer network vulnerability report; [and]

(2) any other assessment of the extent to which data processing operations, a computer, a computer program, network, system, or system interface, or software of a governmental body or of a contractor of a governmental body is vulnerable to unauthorized access or harm, including an assessment of the extent to which the governmental body's or contractor's electronically stored information containing sensitive or critical information is vulnerable to alteration, damage, erasure, or inappropriate use[.]

Gov't Code § 552.139. Section 2059.055 of the Government Code provides in pertinent part:

(b) Network security information is confidential under this section if the information is:

(1) related to passwords, personal identification numbers, access codes, encryption, or other components of the security system of a state agency;

(2) collected, assembled, or maintained by or for a governmental entity to prevent, detect, or investigate criminal activity; or

(3) related to an assessment, made by or for a governmental entity or maintained by a governmental entity, of the vulnerability of a network to criminal activity.

Id. § 2059.055(b). You state portions of the remaining information pertain to password keys, user identifications, and passwords, release of which would pose a security risk. However, you have not demonstrated how the remaining information relates to computer network security, or to the design, operation, or defense of the district's computer network as contemplated in section 552.139(a). Further, we find you have failed to explain how the remaining information consists of a computer network vulnerability report or assessment as contemplated by section 552.139(b). Accordingly, the district may not withhold any of the remaining information under section 552.139 of the Government Code.

The remaining information contains information subject to section 552.130 of the Government Code, which excepts from release information relating to a motor vehicle operator's license, driver's license, title, or registration issued by an agency of this state or another state or country.⁸ *Id.* § 552.130(a)(1), (2). Upon review, we find the district must withhold the driver's license information we have marked in the remaining information under section 552.130 of the Government Code.

The remaining information also contains an e-mail address subject to section 552.137 of the Government Code. Section 552.137 excepts from disclosure "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body," unless the owner of the e-mail address consents to its release or the e-mail address falls within the scope of section 552.137(c). *See id.* § 552.137(a)-(c). The district must withhold the e-mail address we have marked under section 552.137 of the Government Code, unless its owner affirmatively consents to its public disclosure.

In summary, the district need not release the security codes and computer passwords we have marked as they are not subject to public disclosure under the Act. With regard to the information at issue in *Dallas County Hosp. Dist. d/b/a Parkland Health & Hosp. Sys. v. Greg Abbott, Attorney Gen. of Tex.*, No. D-1-GN-11-003959 (126th Dist. Ct., Travis County, Tex.) and *Dallas County Hosp. Dist. d/b/a Parkland Health & Hosp. Sys. v. Greg Abbott, Attorney Gen. of Tex.*, No. D-1-GN-12-000225 (353rd Dist. Ct., Travis County, Tex.), we allow the trial court to determine whether the types of information at issue must be released to the public. With regard to information in the current request that is identical to information ruled upon by this office in Open Records Letter Nos. 2011-09901, 2011-18844, and 2011-19210 and is not at issue in the aforementioned lawsuits, the district must continue to rely on those rulings as previous determinations and withhold or release the previously ruled upon information in accordance with those rulings. The district may only release the

⁸The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

medical records we have marked in accordance with the MPA. The district must withhold, in conjunction with section 552.101 of the Government Code (1) the permanent resident card, the employment authorization card, and the arrival/departure records we marked pursuant to section 1304(b) of title 8 of the United States Code; (2) the marked consumer report pursuant to the FCRA; and (3) the information we have marked in conjunction with common-law privacy. The district must withhold the driver's license information we have marked under section 552.130 of the Government Code. The district must also withhold the e-mail address we have marked under section 552.137 of the Government Code, unless its owner affirmatively consents to its public disclosure. The remaining information must be released.

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,


Jonathan Miles
Assistant Attorney General
Open Records Division

JM/em

Ref: ID# 449259

Enc. Submitted documents

c: Requestor
(w/o enclosures)

mr

APR 29 2016

At 2:29 p.m.
Velva L. Price, District Clerk

Cause No. D-1-GV-12-000411

DALLAS COUNTY HOSPITAL
DISTRICT d/b/a PARKLAND HEALTH
& HOSPITAL SYSTEM,
Plaintiff,

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§
§

IN THE DISTRICT COURT OF

53rd JUDICIAL DISTRICT

v.

THE HON. GREG ABBOTT,
ATTORNEY GENERAL OF TEXAS,
Defendant.

TRAVIS COUNTY, TEXAS

AGREED FINAL JUDGMENT

This cause is an action under the Public Information Act (PIA), Tex. Gov't Code ch. 552, in which Dallas County Hospital District d/b/a Parkland Health and Hospital System (Parkland), sought to withhold certain information. All matters in controversy between Plaintiff, Parkland, and Defendant, Ken Paxton¹, Attorney General of Texas (Attorney General), have been resolved by settlement, a copy of which is attached hereto as Exhibit "A", and the parties agree to the entry and filing of an Agreed Final Judgment.

Texas Government Code section 552.325(d) requires the Court to allow a requestor a reasonable period of time to intervene after notice is attempted by the Attorney General. The Attorney General represents to the Court that, in compliance with Tex. Gov't Code § 552.325(c), the Attorney General sent a certified letter to the requestor, Mr. Brooks Egerton, on April 13, 2016, informing him of the setting of this matter on the uncontested docket on this date. The requestor was informed of the parties' agreement that Parkland will withhold the designated portions of the information at issue. The requestor was also informed of his right to intervene in the suit to contest the

¹ Because the Attorney General was sued in his official capacity, Ken Paxton is now the correct defendant.



withholding of this information. A copy of the certified mail receipt is attached to this motion.

The requestor has not filed a motion to intervene.

After considering the agreement of the parties and the law, the Court is of the opinion that entry of an agreed final judgment is appropriate, disposing of all claims between these parties.

IT IS THEREFORE ADJUDGED, ORDERED AND DECLARED THAT:

1. Parkland and the Attorney General have agreed that in accordance with the PIA and under the facts presented, portions of the information at issue, specifically the APOWW reports in which no arrests occurred, are excepted from disclosure pursuant to Tex. Gov't Code § 552.108(a)(2), as these reports have all been determined to be records made by a law enforcement official, none of which have resulted in convictions or deferred adjudications. Parkland may also redact information regarding the patient's identity in those APOWW reports because the patients are neither arrestees nor complainants, and therefore information identifying them does not constitute basic information subject to section 552.108(c). Basic information must be released to the requestor in accordance with the guidelines for law enforcement reports not resulting in an arrest.

2. Parkland and the Attorney General have agreed that in accordance with the PIA and under the facts presented, portions of the information at issue, specifically the APOWW report in which an arrest did occur, will be released with a driver's license redacted pursuant to Tex. Gov't Code § 552.130 and a social security number redacted pursuant to Tex. Gov't Code § 552.147. Additionally, the victim/complaint's personal identifying information and the arrestee's date of birth will be redacted pursuant to Tex. Gov't Code § 552.101 in conjunction with common-law privacy. Parkland can withhold all

other documents which are consistent with Letter Rulings OR2012-04670, OR2012-04717, and OR2012-04934.

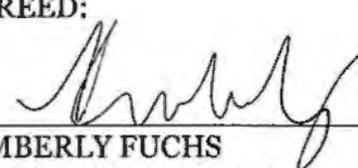
3. All court cost and attorney fees are taxed against the parties incurring the same;
4. All relief not expressly granted is denied; and
5. This Agreed Final Judgment finally disposes of all claims that are the subject of this lawsuit between Parkland and the Attorney General and is a final judgment.

SIGNED the 29th day of April, 2016.



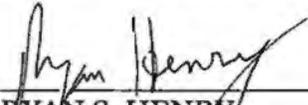
PRESIDING JUDGE

AGREED:



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ATTORNEY FOR PLAINTIFF DALLAS COUNTY HOSPITAL DISTRICT d/b/a PARKLAND HEALTH & HOSPITAL SYSTEM

A

DALLAS COUNTY HOSPITAL	§	IN THE DISTRICT COURT OF
DISTRICT d/b/a PARKLAND HEALTH	§	
& HOSPITAL SYSTEM,	§	
<i>Plaintiff,</i>	§	
	§	53rd JUDICIAL DISTRICT
v.	§	
	§	
THE HON. GREG ABBOTT,	§	
ATTORNEY GENERAL OF TEXAS,	§	
<i>Defendant.</i>	§	TRAVIS COUNTY, TEXAS

SETTLEMENT AGREEMENT

This Settlement Agreement (Agreement) is made by and between the Dallas County Hospital District, d/b/a Parkland Health and Hospital System (Parkland) and Ken Paxton¹, Attorney General of Texas (the Attorney General). This Agreement is made on the terms set forth below.

Background

In December 2011 and January 2012, three requests were made under the Public Information Act (PIA) by Brooks Egerton for information from Parkland. Included in the responsive information were reports of apprehension of peace officers without a warrant, also known as APOWW reports.

In Letter Rulings OR2012-04670, OR2012-04717, and OR2012-04934, the Open Records Division of the Attorney General (ORD) allowed some of the responsive information to be withheld while requiring release of some of the information. The Attorney General determined that basic information should be released from the APOWW reports.

¹ Because the Attorney General was sued in his official capacity, Ken Paxton is now the correct defendant.

After this lawsuit was filed, Parkland submitted information and briefing to the Attorney General establishing that the identities of the subjects of the APPOW reports are excepted from disclosure under Texas Government Code section 552.108 because none of the subjects of the report were arrested as a result of the incidents detailed in the reports. The Attorney General has reviewed Parkland's request and agrees to the settlement.

Texas Government Code section 552.325(c) allows the Attorney General to enter into settlement under which the information at issue in this lawsuit may be withheld. The parties wish to resolve this matter without further litigation.

Terms

For good and sufficient consideration, the receipt of which is acknowledged, the parties to this Agreement agree and stipulate that:

1. Parkland and the Attorney General have agreed that in accordance with the PIA and under the facts presented, portions of the information at issue, specifically the APOWW reports in which no arrests occurred, are excepted from disclosure pursuant to Tex. Gov't Code § 552.108(a)(2), as these reports have all been determined to be records made by a law enforcement official, none of which have resulted in convictions or deferred adjudications. Parkland may also redact information regarding the patient's identity in those APOWW reports because the patients are neither arrestees nor complainants, and therefore information identifying them does not constitute basic information subject to section 552.108(c). Basic information must be released to the requestor in accordance with the guidelines for law enforcement reports not resulting in an arrest.

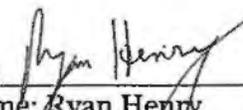
2. Parkland and the Attorney General have agreed that in accordance with the PIA and under the facts presented, portions of the information at issue, specifically the APOWW report in which an arrest did occur, will be released with a driver's license redacted pursuant to Tex. Gov't Code § 552.130 and a social security number redacted, pursuant to Tex. Gov't Code § 552.147. Additionally, the victim/complaint's personal identifying information and the arrestee's date of birth will be redacted pursuant to Tex. Gov't Code § 552.101 in conjunction with common-law privacy. Parkland can withhold all other documents which are consistent with Letter Rulings OR2012-04670, OR2012-04717, and OR2012-04934.
3. Parkland and the Attorney General agree to the entry of an agreed final judgment, the form of which has been approved by each party's attorney. The agreed final judgment will be presented to the court for approval, on the uncontested docket, with at least 15 days prior notice to the requestor.
4. The Attorney General agrees that he will also notify the requestor, as required by Tex. Gov't Code § 552.325(c), of the proposed settlement and of his right to intervene to contest Parkland's right to withhold the information.
5. A final judgment entered in this lawsuit after a requestor intervenes prevails over this Agreement to the extent of any conflict.
6. Each party to this Agreement will bear their own costs, including attorney fees relating to this litigation.
7. The terms of this Agreement are contractual and not mere recitals, and the agreements contained herein and the mutual consideration transferred is to

compromise disputed claims fully, and nothing in this Agreement shall be construed as an admission of fault or liability, all fault and liability being expressly denied by all parties to this Agreement.

8. Parkland warrants that its undersigned representative is duly authorized to execute this Agreement on its behalf and that its representative has read this Agreement and fully understands it to be a compromise and settlement and release of all claims that Parkland has against the Attorney General arising out of the matters described in this Agreement.
9. The Attorney General warrants that his undersigned representative is duly authorized to execute this Agreement on behalf of the Attorney General and his representative has read this Agreement and fully understands it to be a compromise and settlement and release of all claims that the Attorney General has against Parkland arising out of the matters described in this Agreement.
10. This Agreement shall become effective, and be deemed to have been executed, on the date on which the last of the undersigned parties sign this Agreement.

DALLAS COUNTY HOSPITAL SYSTEM,
D/B/A PARKLAND HEALTH AND
HOSPITAL SYSTEM.

KEN PAXTON, ATTORNEY GENERAL
OF TEXAS

By: 
name: Ryan Henry
firm: Law Offices of Ryan Henry, PLLC
Date: 4/12/16

By: 
name: Kimberly Fuchs
title: Assistant Attorney General,
Administrative Law Division
Date: 4/12/16