



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 15, 2015

Ms. Jennifer Matte
Assistant County Attorney
Harris County
1019 Congress Street, 15th Floor
Houston, Texas 77002

OR2015-07340

Dear Ms. Matte:

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# 561912 (C.A. File No. 15PIA0081).

The Harris County Office of Human Resources and Risk Management (the "county") received a request for five categories of information regarding an accident involving a named individual, including (1) the accident report, (2) a summary of medical expenses, (3) insurance information, (4) pleadings pertaining to any pending litigation, and (5) a proposed distribution of settlement proceeds. You claim the submitted information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note most of the submitted information is not responsive to the request for information as it does not pertain to any of the requested categories of information. This ruling does not address the public availability of non-responsive information, and the county is not required to release non-responsive information in response to this request.

Next, we note the county has submitted information responsive only to the first category of the request. Therefore, to the extent information responsive to the remainder of the request existed at the time the county received the request for information, we assume you have released it to the requestor. If you have not released any such information, you must do so at this time. *See* Gov't Code §§ 552.301.302; Open Records Decision No. 664 (2000)

(noting if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible under circumstances).

We next note the responsive information is subject to section 552.022 of the Government Code. Section 552.022(a) provides, in relevant part:

(a) [T]he following categories of information are public information and not excepted from required disclosure unless made confidential under this chapter or other law:

(1) a completed report, audit, evaluation, or investigation made of, for, or by a governmental body, except as provided by Section 552.108[.]

Gov't Code § 552.022(a)(1). The responsive information consists of accident reports that are part of a completed investigation and subject to section 552.022(a)(1). The county must release the information at issue pursuant to subsection 552.022(a)(1) unless it is excepted from disclosure under section 552.108 of the Government Code or expressly made confidential under the Act or other law. *See id.* § 552.022(a)(1). Although you raise section 552.103 of the Government Code for the information, this section is a discretionary exception to disclosure and does not make information confidential under the Act. *See Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive Gov't Code § 552.103); Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 663 at 5 (1999) (waiver of discretionary exceptions). Therefore, the county may not withhold the information subject to subsection 552.022(a)(1) under section 552.103. However, we note some of the information at issue is subject to sections 552.101, 552.1175, and 552.130 of the Government Code, which make information confidential under the Act.¹ Thus, we will address the applicability of these sections to the submitted information.

The submitted information contains a CR-3 accident report completed pursuant to chapter 550 of the Transportation Code. *See* Transp. Code § 550.064 (officer's accident report). Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information protected by other statutes, such as section 550.065(b) of the Transportation Code. Section 550.065(b) states that except as provided by subsection (c) or subsection (e), accident reports are privileged and confidential. *See* Transp. Code § 550.065. Section 550.065(c)(4) provides for the release of CR-3 accident reports to a person who provides two of the following three pieces of information: (1) date of the accident; (2) name of any person involved in the

¹The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

accident; and (3) specific location of the accident. *Id.* § 550.065(c)(4). Under this provision, the Texas Department of Transportation or another governmental entity is required to release a copy of an accident report to a person who provides the governmental entity with two or more pieces of information specified by the statute.

The requestor has not provided the county with two of the three requisite pieces of information specified by the statute. Accordingly, the county must withhold the submitted CR-3 accident report under section 552.101 of the Government Code in conjunction with section 550.065(b) of the Transportation Code.

We note some of the remaining responsive information may be excepted from disclosure under section 552.1175 of the Government Code. Section 552.1175 protects the home address, home telephone number, emergency contact information, date of birth, social security number, and family member information of certain individuals when that information is held by a governmental body in a non-employment capacity and the individual elects to keep the information confidential. Gov't Code § 552.1175. Section 552.1175 applies, in part, to "peace officers as defined by Article 2.12, Code of Criminal Procedure[.]" *Id.* § 552.1175(a)(1). The submitted records contain personal information of a peace officer that is held in a non-employment capacity and is subject to section 552.1175. Thus, provided the officer whose information is at issue is currently a licensed peace officer who elects to restrict access to his information in accordance with section 552.1175(b), the county must withhold the information we have marked under section 552.1175 of the Government Code. If the peace officer whose information we have marked is no longer a licensed peace officer or no election is made, the county may not withhold the information we have marked under section 552.1175.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's or driver's license or permit, a motor vehicle title or registration, or a personal identification document issued by an agency of Texas or another state or country is excepted from public release. Gov't Code § 552.130(a). We conclude the county must withhold the information we have marked under section 552.130 of the Government Code.

In summary, the county must withhold the submitted CR-3 accident report under section 552.101 of the Government Code in conjunction with section 550.065(b) of the Transportation Code. Provided the officer whose information is at issue is currently a licensed peace officer who elects to restrict access to his information in accordance with section 552.1175(b), the county must withhold the information we have marked under section 552.1175. The county also must withhold the information we have marked under section 552.130 of the Government Code. The county must release the remaining responsive information.

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/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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 561912

Enc. Submitted documents

c: Requestor
(w/o enclosures)