



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 20, 2007

Ms. Myrna S. Reingold  
Galveston County Legal Department  
Galveston County Courthouse  
722 Moody, 5<sup>th</sup> Floor  
Galveston, Texas 77550

OR2007-15325

Dear Ms. Reingold:

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 #295247.

The Galveston County Sheriff's Office (the "sheriff") received a request for surveillance video recordings taken of the Galveston County Courthouse (the "courthouse") from 9:30 A.M. to 11:00 A.M. on August 31, 2007, as well as information regarding the officers who monitored the recordings and information regarding malfunctioning video equipment during a specified period of time. You claim that the sheriff does not maintain the videos themselves, nor does it maintain information regarding the malfunctioning video equipment.<sup>1</sup> You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note that part of the present request for information is for the names of officers who monitored surveillance videos of the courthouse. In response to this part of the request, you have submitted a shift assignment roster for all officers within the entire Galveston

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<sup>1</sup>The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990).

County Criminal Justice Center. We note that only the portion of this document naming the officers who monitored the surveillance video during the requested time period is responsive to the present request. We have marked this information. The remaining information is not responsive to this request and need not be released. Moreover, we do not address such information in this ruling.

Section 552.101 of the Government Code exempts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. This section encompasses information made confidential by other statutes, such as section 418.182 of the Texas Homeland Security Act (the “HSA”), chapter 418 of the Government Code. Section 418.182 provides:

(a) Except as provided by Subsections (b) and (c), information, including access codes and passwords, in the possession of a governmental entity that relates to the specifications, operating procedures, or location of a security system used to protect public or private property from an act of terrorism or related criminal activity is confidential.

*Id.* § 418.182. The fact that information may be related to a governmental body’s security concerns does not make such information *per se* confidential under the HSA. *See* Open Records Decision No. 649 at 3 (1996) (language of confidentiality provision controls scope of its protection). Furthermore, the mere recitation by a governmental body of a statute’s key terms is not sufficient to demonstrate the applicability of a claimed provision. As with any exception to disclosure, a governmental body asserting one of the confidentiality provisions of the HSA must adequately explain how the responsive records fall within the scope of the claimed provision. *See* Gov’t Code § 552.301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies). We note that section 418.182 pertains to security systems used to protect public or private property from terrorism. You have made no arguments explaining how the names of security officers who were monitoring video surveillance equipment on a certain date relate to the specifications, operating procedures, or location of the surveillance system. Accordingly, you have failed to demonstrate the applicability of section 418.182 to the requested names. Therefore, the sheriff may not withhold the requested names under section 552.101 of the Government Code.

Section 552.108(b)(1) of the Government Code exempts from required public disclosure “[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution... if... release of the internal record or notation would interfere with law enforcement or prosecution[.]” *Id.* § 552.108(b)(1). A governmental body that claims an exception to disclosure under section 552.108 must reasonably explain how and why this section is applicable to the information that the governmental body seeks to withhold. *See id.* § 552.301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977); Open Records Decision No. 434 at 2-3 (1986). This office has concluded that section 552.108(b)(1) protects certain kinds of

information, the disclosure of which might compromise the security or operations of a law enforcement agency. *See City of Fort Worth v. Cornyn*, 86 S.W.3d 320, 327 (Tex. App.—Austin 2002, no pet.) (section 552.108(b)(1) protects information that, if released, would permit private citizens to anticipate weaknesses in police department, avoid detection, jeopardize officer safety, and generally undermine police efforts to effectuate state laws). You argue that release of the complete roster of security personnel and their assigned locations would jeopardize officer safety, as well as compromise the security of a law enforcement agency. However, as stated above, only the names of the officers who monitored video equipment during the specified period of time are responsive to the present request for information. You have submitted no arguments explaining that release of these names will jeopardize these officers' safety or compromise the security or operations of the courthouse. Accordingly, the names may not be withheld under section 552.108. As you raise no further exceptions to disclosure, the sheriff must release the requested names to the requestor.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental

body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Reg Hargrove  
Assistant Attorney General  
Open Records Division

RJH/eeg

Ref: ID# 295247

Enc. Submitted documents

c: Mr. Danny Royce Murphy  
1919 Evergreen Lane  
La Marque, Texas 77568  
(w/o enclosures)