



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 4, 2010

Ms. Jennifer C. Cohen
Assistant General Counsel
Texas Department of Public Safety
P. O. Box 4087
Austin, Texas 78773-0001

OR2010-03152

Dear Ms. Cohen:

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# 377400 (ORA # 10-0295).

The Texas Department of Public Safety (the "department") received a request for documents detailing the costs of the governor's security detail related to twelve specified trips. You state the department has no information responsive to the first ten specified trips.¹ You also state the department will release some aggregated cost information to the requestor. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

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. This exception encompasses information that other statutes make confidential, including section 418.176 of the Texas Homeland Security Act (the "HSA"), chapter 418 of the Government Code. Section 418.176 provides in relevant part:

¹We note the Act does not require a governmental body to release information that did not exist when it received a request or create responsive information. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision No.452 at 3 (1986).

(a) Information is confidential if the information is collected, assembled, or maintained by or for a governmental entity for the purpose of preventing, detecting, responding to, or investigating an act of terrorism or related criminal activity and:

(1) relates to staffing requirements of an emergency response provider, including a law enforcement agency, a fire-fighting agency, or an emergency services agency; [or]

(2) relates to a tactical plan of the provider[.]

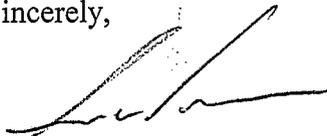
Id. § 418.176. The fact that information may generally be related to emergency preparedness does not make the information *per se* confidential under the provisions of the HSA. *See* Open Records Decision No. 649 at 3 (1996) (language of confidentiality provisions controls scope of its protection). As with any confidentiality statute, a governmental body asserting this section must adequately explain how the responsive information falls within the scope of the provision. *See* Gov't Code § 552.301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies).

You assert the submitted information reveals staffing requirements of a law enforcement agency, the governor's Protective Services Bureau, formerly the Governor Protective Detail ("PSB"). You explain the submitted information reveals the number of individuals "traveling with the governor 'for the purpose of preventing, detecting, responding to, or investigating an act of terrorism or related criminal activity.'" You further explain the department does not publicly identify the number of individuals protecting the governor on a permanent basis or at any particular time. Upon review, we find you have demonstrated the submitted information relates to staffing requirements maintained by or for a governmental entity for the purpose of preventing, detecting, responding to, or investigating an act of terrorism or related criminal activity. Therefore, the department must withhold this information under section 552.101 in conjunction with section 418.176 of the Government Code.

You ask this office to issue a previous determination with respect to any future request for records that would necessarily require disclosure of the staffing requirements of the PSB while performing the duties of preventing, detecting, responding to, or investigating an act of terrorism or related criminal activity. *See id.* § 552.301(a) (allowing governmental body to withhold information subject to previous determination); Open Records Decision No. 673 (2001). We decline to issue such a previous determination at this time. Accordingly, 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 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,



Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/eeg

Ref: ID# 377400

Enc. Submitted documents

c: Requestor
(w/o enclosures)