



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 22, 2010

Mr. Reg Hargrove
Assistant Attorney General
Public Information Coordinator
General Counsel Division
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

OR2010-14399

Dear Mr. Hargrove:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 394238 (PIR No. 10-28379).

The Office of the Attorney General (the "OAG") received a request for "all travel records and logs . . . detailing the publicly funded travel of Texas Attorney General Gregory Abbott." The OAG released some information and asserts the remainder is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the OAG's claimed exceptions to disclosure and have reviewed the submitted sample of information.¹

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 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(a) provides:

(a) Information is confidential if the information is collected, assembled, or maintained by or for a governmental entity for the purpose of preventing,

¹We assume 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 those records contain substantially different types of information than that submitted to this office.

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;
- (2) relates to a tactical plan of the provider; or
- (3) consists of a list or compilation of pager or telephone numbers, including mobile and cellular telephone numbers, of the provider.

Id. § 418.176(a). 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).

The OAG asserts the marked information reveals staffing requirements of the Attorney General's Protective Detail (the "AGPD"). The OAG explains the AGPD is a law enforcement entity charged with providing security to the Attorney General, and the information the OAG seeks to withhold relates to preventing or responding to an act of terrorism or related criminal activity. Upon review, we find the OAG has demonstrated the marked information relates to staffing requirements of a law enforcement entity maintained by or for a governmental entity for the purpose of preventing or responding to an act of terrorism or related criminal activity. Therefore, the OAG must withhold this information under section 552.101 in conjunction with section 418.176 of the Government Code.² However, we find the remaining information does not relate to staffing requirements of the AGPD maintained for the purpose of preventing, detecting, responding to, or investigating an act of terrorism or related criminal activity. Accordingly, the OAG may not withhold the remaining information under section 552.101 in conjunction with section 418.176 of the Government Code.

Next, we address the OAG's section 552.108(b)(1) argument for the remaining information it seeks to withhold. Section 552.108(b)(1) provides:

- (b) An 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 is excepted from the requirements of Section 552.021 if:

²As our ruling is dispositive for this information, we need not address the remaining argument against disclosure of this information.

(1) release of the internal record or notation would interfere with law enforcement or prosecution[.]

Id. § 552.108(b)(1). A governmental body claiming section 552.108(b)(1) must reasonably explain how and why release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(b)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). This office has stated that under the statutory predecessor to section 552.108(b)(1), a governmental body may withhold information that would reveal law enforcement techniques or procedures. *See, e.g.,* Open Records Decision Nos. 531 (1989) (release of detailed use of force guidelines would unduly interfere with law enforcement), 341 (1982) (release of certain information from Department of Public Safety would unduly interfere with law enforcement because release would hamper departmental efforts to detect forgeries of drivers' licenses).

In addition to the arguments stated above, the OAG further asserts release of the information would interfere with law enforcement by revealing the number of security personnel traveling with the AGPD at any given time, which may be used to undermine security measures. After review of the information, we conclude the remaining information does not reveal the AGPD's security details and thus is not excepted under section 552.108(b)(1). The OAG must release the remaining information.

In summary, the OAG must withhold the marked information under section 418.176 of the Government Code. The OAG must release the remainder.

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,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/sdk

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Enc: Marked documents

c: Requestor
(w/o enclosures)