



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 23, 2013

Ms. Michele Tapia  
Assistant City Attorney  
City of Carrollton  
1945 East Jackson Road  
Carrollton, Texas 75006

OR2013-01282

Dear Ms. Tapia:

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# 478214 (City ID# PD-337).

The City of Carrollton (the "city") received a request for information pertaining to a specified incident and any information pertaining to calls to the city police department regarding noise from a specified address. You claim some of the requested 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.

Section 552.108(a)(1) of the Government Code excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]" Gov't Code § 552.108(a)(1). A governmental body claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state Exhibit B relates to a pending criminal investigation and prosecution. Based upon this representation, we conclude release of the information you have marked in Exhibit B would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975)

(court delineates law enforcement interests that are present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*, and includes a detailed description of the offense. See 531 S.W.2d at 186-88; Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). We note you have marked most of the narrative portion of the incident report in Exhibit B as information you seek to withhold under section 552.108. However, the unmarked portions of Exhibit B do not contain information sufficient to satisfy the requirement that a "detailed description of the offense" be released as basic information. See ORD 127. Thus, with the exception of basic information, which must include a detailed description of the offense, you may withhold the information you have marked in Exhibit B under section 552.108(a)(1) of the Government Code.<sup>1</sup>

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 section encompasses information protected by other statutes. As part of the Texas Homeland Security Act ("HSA"), sections 418.176 through 418.182 were added to chapter 418 of the Government Code. You assert portions of Exhibit C are excepted from public disclosure under section 552.101 in conjunction with section 418.182 of the HSA. Section 418.182 provides in part:

(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).

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<sup>1</sup>As our ruling is dispositive for this information, we need not address your remaining argument against its disclosure.

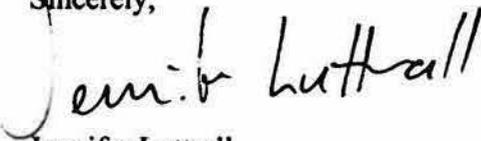
You have marked the numerical gate codes of an apartment complex in Exhibit C that you state are confidential under section 418.182. However, you have made no arguments explaining how the marked information relates to the specifications, operating procedures, or location of a security system used to protect public or private property from terrorism or related criminal activity. Therefore, the city may not withhold any of the marked information in Exhibit C under section 552.101 in conjunction with section 418.182.

In summary, with the exception of basic information, the city may withhold the information you have marked in Exhibit B from disclosure under section 552.108(a)(1) of the Government Code. 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](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,



Jennifer Luttrall  
Assistant Attorney General  
Open Records Division

JL/som

Ref: ID# 478214

Enc. Submitted documents

c: Requestor  
(w/o enclosures)