



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 16, 2013

Ms. Molly Cost
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR2013-17974

Dear Ms. Cost:

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# 500986 (DPS PIR#s 13-2742, 13-2744, 13-2745, 13-2746, 13-2748, 13-2749, and 13-2825).

The Texas Department of Public Safety (the "department") received seven requests for information pertaining to a specified press release, troopers confiscating specified items on a specified date, specified incidents involving named individuals, audio or video recordings of portions of the Texas State Capitol (the "capitol") on specified dates, and the names of specified department officers. You state the department has released some of the requested information.¹ You state the department will redact certain motor vehicle record information under section 552.130(c) of the Government Code, social security numbers under section 552.147(b) of the Government Code, and criminal history record information ("CHRI") pursuant to the previous determination issued to the department in Open Records Letter No. 2001-2047 (2001).² You claim the remaining requested information is excepted

¹In a letter dated August 5, 2013, you withdraw your request for an ruling regarding the requests for information you designated PIR#s 13-2742, 13-2744, 13-2745, 13-2748, and 13-2749 because the department has released the information responsive to these requests to these requestors.

²Section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Act of May 6, 2013, 83rd Leg., R.S., S.B. 458, § 1 (to be codified as an amendment to Gov't Code § 552.130(c)). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See* Gov't Code § 552.130(d), (e). Section 552.147(b) of the Government Code authorizes

from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative samples of information.³

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. You raise section 552.101 in conjunction with section 418.182 of the Government Code, which was added to chapter 418 of the Government Code as part of the Texas Homeland Security Act. 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(a). The fact information may generally be related to a security system does not make the information *per se* confidential under section 418.182. *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 confidentiality provision, a governmental body asserting section 418.182 must adequately explain how the responsive information falls within the scope of the statute. *See* Gov’t Code § 552.301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies).

You contend the submitted video recordings are confidential under section 418.182. You explain this information was recorded on the security system at the capitol. You inform this office the security system at issue is used to protect the capitol from terrorism or related criminal activity. Further, you explain specifications of a security system include the capabilities of a system’s cameras, and that release of the submitted video recordings would demonstrate the capabilities of the security system at the capitol. Based on your representations and our review of this information, we conclude the department has

a governmental body to redact a living person’s social security number from public release without the necessity of requesting a decision from this office. *See id.* § 552.147(b). Open Records Letter No. 2001-2047 authorizes the department to withhold CHRI maintained under section 411.083 of the Government Code without the necessity of requesting an attorney general decision. *See* Gov’t Code § 552.301(a); Open Records Decision No. 673 (2001) (previous determinations).

³We assume the “representative samples” of records submitted to this office are 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 that those records contain substantially different types of information than that submitted to this office.

demonstrated the submitted video recordings relate to the specifications, operating procedures, or location of a security system used to protect public property from an act of terrorism or related criminal activity. *See Tex. Dep't of Pub. Safety v. Abbott*, 310 S.W.3d 670 (Tex. App.—Austin 2010, no pet.) (finding video recording from security camera in capitol confidential under section 418.182 of HSA because video recording revealed capabilities of capitol security system through characteristics, quality, and clarity of images recorded). You state the exceptions in subsections (b) and (c) of section 418.182 of the Government Code are not applicable to the information at issue. Accordingly, the department must withhold the submitted video recordings under section 552.101 of the Government Code in conjunction with section 18.182(a) of the Government Code.

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).

We note, however, the information you seek to withhold under section 552.108(a)(1) includes citations. Because copies of the citations are provided to the individuals who are the subject of the citations, we find release of the citations will not interfere with the detection, investigation, or prosecution of crime. *See Gov’t Code § 552.108(a)(1)*. Therefore, the department may not withhold the citations, which we have marked, under section 552.108.

You state the information you have marked relates to pending criminal investigations. Based upon this representation and our review, we find release of the information at issue 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). Accordingly, except for the citations we have marked, the department may withhold the information you have marked under section 552.108(a)(1) of the Government Code.

We note some of the remaining information is subject to section 552.130 of the Government Code.⁴ Section 552.130 excepts from disclosure information that relates to a motor vehicle operator’s license or driver’s license or a motor vehicle title or registration issued by a Texas agency, or an agency of another state or country. *See Gov’t Code § 552.130(a)(1)-(2)*. Upon review, we find the department must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code.

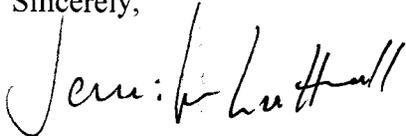
⁴The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

In summary, the department must withhold the submitted video recordings under section 552.101 of the Government Code in conjunction with section 418.182(a) of the Government Code. With the exception of the citations we have marked, the department may withhold the information you have marked under section 552.108(a)(1) of the Government Code. The department must withhold the information we have marked under section 552.130 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.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,



Jennifer Luttrall
Assistant Attorney General
Open Records Division

JL/som

Ref: ID# 500986

Enc. Submitted documents

c: 7 Requestors
(w/o enclosures)