



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 5, 2013

Ms. Jordan Hale
Assistant Attorney General
Public Information Coordinator
General Counsel Division
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

OR2013-21146

Dear Ms. Hale:

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# 508220 (PIR No. 13-37258).

The Office of the Attorney General (the "OAG") received a request for records related to the use of state aircraft by the OAG from 2002 to the date of the request. You state the OAG will release most of the responsive information. You claim some of the submitted information is excepted from disclosure under sections 552.101 and 552.152 of the Government Code. We have considered the exceptions 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 part:

(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 the staffing requirements of an emergency response provider, including a law enforcement agency, a fire-fighting agency, or an emergency services agency[.]

Id. § 418.176(a)(1). The fact that information may generally be related to a governmental body's security concerns or emergency preparedness does not make the information *per se* confidential under 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 section 418.176 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 states the submitted information reveals staffing requirements of the Attorney General's Protective Detail ("AGPD") on particular flights. The OAG explains the AGPD is a law enforcement agency, comprised of security personnel employed by the Texas Department of Public Safety, which provides security for the Attorney General during his use of state-owned aircraft for state business travel needs. The OAG further explains that releasing the information at issue would reveal the number of AGPD personnel traveling with the Attorney General. Based on these representations and our review, we find the OAG has demonstrated the information we marked relates to staffing requirements of a law enforcement agency 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 OAG must withhold the information we marked under section 552.101 of the Government Code in conjunction with section 418.176 of the Government Code.¹ However, we find the OAG has not established the remaining information at issue relates to staffing requirements for the purpose of preventing, detecting, responding to, or investigating an act of terrorism or related criminal activity. Accordingly, the OAG may not withhold any of the remaining information under section 552.101 of the Government Code in conjunction with section 418.176 of the Government Code.

Section 552.152 of the Government Code provides:

Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from [required public disclosure] if, under the specific circumstances pertaining to the

¹As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm.

Id. § 552.152. The OAG asserts releasing the remaining information it has marked would reveal the number of AGPD traveling with the Attorney General and subject the Attorney General and members of the AGPD to a substantial threat of physical harm. However, upon review, we find none of the remaining information discloses the staffing requirements, or identities of AGPD, or is information that would subject an employee or officer of a governmental body to a substantial threat of physical harm. Accordingly, none of the remaining information may be withheld under section 552.152 of the Government Code.

In summary, the OAG must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 418.176 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,



Amy L.S. Shipp
Assistant Attorney General
Open Records Division

ALS/ag

Ref: ID# 508220

Enc. Submitted documents

c: Requestor
(w/o enclosures)