



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 25, 2010

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

OR2010-02854

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# 371400 (ORA Nos. 09-2423 and 10-0294).

The Texas Department of Public Safety (the "department") received two requests for all documents detailing the cost of Governor Perry's security detail for trips to Las Vegas and New York City in October 2009. You state the department will provide summaries of the costs related to the trips and Protective Services Bureau (the "PSB," formerly the Governor's Protective Detail) payroll and overtime information for October 2009 to the requestors. You claim the submitted documents, which reveal the number and names of the members of the PSB, are 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:

(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 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 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 documents reveal staffing requirements of the PSB. You explain the PSB, as part of the department, is a law enforcement agency. You explain the submitted documents reveal the number of PSB members traveling with the governor for the purpose of preventing, detecting, responding to, or investigating an act of terrorism or related criminal activity. You explain the submitted documents were collected in conjunction with this 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 documents relate to staffing requirements of a law enforcement agency and that this information was collected 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 the submitted documents in their entirety under section 552.101 in conjunction with section 418.176 of the Government Code.

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,



Jessica Eales
Assistant Attorney General
Open Records Division

JCE/eeg

Ref: ID# 371400

Enc. Submitted documents

c: Requestor
(w/o enclosures)