ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 31, 2014

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

OR2014-13282

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# 531379 (PIR# 14-1951).

The Texas Department of Public Safety ("DPS") received a request for information pertaining to travel expenses incurred by the Governor's security detail for a specified period of time. You claim the requested information is excepted from disclosure under section 552.152 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, you state some of the responsive information was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2014-02048 (2014). As we have no indication the law, facts, or circumstances upon which the prior ruling was based have changed, we agree DPS must continue to rely on Open Records Letter No. 2014-02048 as a previous determination and withhold the information at issue in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

You inform us the submitted information consists of travel vouchers and supporting documentation submitted by agents of DPS's Executive Protection Bureau (the "EPB") for reimbursement of travel expenses. Section 660.2035 of the Government Code provides in relevant part:

> (a) A voucher or other expense reimbursement form, and any receipt or other document supporting that voucher or other expense reimbursement form, that is submitted or to be submitted under Section 660.027 is confidential under Chapter 552 for a period of 18 months following the date of travel if the voucher or other expense reimbursement form is submitted or is to be submitted for payment or reimbursement of a travel expense incurred by a peace officer while assigned to provide protection for an elected official of this state or a member of the elected official's family.
>
> (b) At the expiration of the period provided by Subsection (a), the voucher or other expense reimbursement form and any supporting documents become subject to disclosure under Chapter 552 and are not excepted from public disclosure or confidential under that chapter or other law, except that the following provisions of that chapter apply to the information in the voucher, reimbursement form, or supporting documents:
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> (1) Section 552.117;
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> (2) Section 552.1175;
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> (3) Section 552.119;
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> (4) Section 552.136;
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> (5) Section 552.137;
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> (6) Section 552.147; and
>
> (7) Section 552.152.

Gov't Code § 660.2035 (a), (b); *see also id.* §660.027. You indicate, and the documents reflect, the information at issue was submitted under section 660.027 of the Government Code and is no longer confidential under subsection 660.2035(a) because more than eighteen months have elapsed since the dates of travel. Thus, the submitted information is made public under subsection 660.2035(b) and must be released, unless an exception set out in this subsection applies. Subsection 660.2035(b) specifically lists seven exceptions that can apply

to withhold information within a voucher, expense reimbursement form, and any supporting document submitted under section 660.027. As section 552.152 of the Government Code is an exception listed in subsection 660.2035(b), we will consider your claim under that exception.

You seek to withhold the submitted information in its entirety pursuant to section 552.152 of the Government Code. Section 552.152 provides:

> Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from the requirements of Section 552.021 if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm.

Id. § 552.152. You assert releasing the submitted information would reveal the number of EPB agents traveling with the Governor and subject the Governor, his family, and members of the EPB to a substantial threat of physical harm. You further argue that revealing this information, even in redacted form, would reveal "the tactics employed by the EPB when traveling with the Governor," and, as a result, "would allow someone to detect patterns in these travel arrangements that could be used to inflict future harm." In *Tex. Dep't of Pub. Safety v. Cox Tex. Newspapers, LP. & Hearst Newspapers, LLC*, 343 S.W.3d 112, 119 (Tex. 2011), the supreme court, when considering whether the release of the Governor's travel vouchers at issue in that case would lead to a substantial threat of harm, stated "deference must be afforded DPS officers and other law enforcement experts regarding the probability of harm, although vague assertion of risk will not carry the day." Additionally, we note that, after the supreme court remanded the case in *Cox* back to the district court to determine what information is confidential under this standard, the district court granted DPS's motion for summary judgment, finding the travel vouchers were confidential in their entirety. *See Tex. Dep't of Pub. Safety v. Cox Tex. Newspapers, LP. & Hearst Newspapers, LLC*, 287 S.W.3d 390 (Tex. App.—Austin 2009), *pet. granted,* 343 S.W.3d 112 (Tex. 2011), *remanded to Cox Tex. Newspapers, LP. & Hearst Newspapers, LLC v. Tex. Dep't of Pub. Safety*, No. D-1-GN-07-004116 (261st Dist. Ct., Travis County, Tex. May 10, 2012). Thus, in this instance and when analyzing the probability of harm, this office must defer to the representations of the entity charged with protecting the Governor and his family from physical harm. Accordingly, based on the representations of DPS and our review, we conclude you have demonstrated release of the information at issue would subject the Governor and the EPB agents to a substantial threat of physical harm. Therefore, DPS must withhold the submitted information in its entirety under section 552.152 of the Government Code.

You also ask this office to issue a previous determination that would permit DPS to withhold travel vouchers and related documents as described by section 660.2035 of the Government Code that are older than 18 months from the date of travel under section 552.152, without

the necessity of requesting a decision from this office. *See* Gov't Code § 552.301(a); ORD 673 (previous determinations). We decline to issue such a decision at this time. Accordingly, 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,

Miriam A. Khalifa
Assistant Attorney General
Open Records Division

MAK/akg

Ref: ID# 531379

Enc. Submitted documents

c: Requestor
(w/o enclosures)