



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 28, 2015

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

OR2015-08119

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# 563898 (PIR# 15-0920).

The Texas Department of Public Safety (the "department") received a request for information pertaining to a specified incident, including audio and visual recordings. You state you will release some information to the requestor. You claim some of the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information. We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (permitting interested third party to submit to attorney general reasons why requested information should or should not be released).

Initially, we understand the requestor to claim the department failed to comply with the procedural obligations under the Act. Section 552.301 of the Government Code prescribes the procedures that a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. *See id.* § 552.301. Pursuant to section 552.301(e), a governmental body must submit to this office within fifteen business days of receiving an open records request (1) written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, (3) a signed statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific

information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. *Id.* § 552.301(e).

The department received the request for information on February 24, 2015. The department informs us it was closed on March 2, 2015. We note this office does not count the date the request was received or holidays for the purpose of calculating a governmental body's deadlines under the Act. Thus, the department's fifteen-business-day deadline was March 18, 2015. On March 18, 2015, the department submitted to this office the information required under section 552.301(e), including the department's comments explaining why the raised exceptions raised apply. The department's comments indicate the requestor was copied on them. Consequently, we find the department complied with the procedural requirements mandated by subsection 552.301(e) of the Government Code. Accordingly, we will address the department's arguments against disclosure of 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." *Id.* § 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).

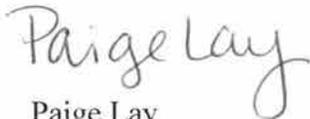
You contend the submitted video recordings and the information you have marked in the submitted investigative report are confidential under section 418.182. You explain the submitted video recordings were recorded on the security system at the capitol. You inform this office the security system at issue 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. Additionally, you state release of the information you have marked would reveal the number and location of the

security cameras in specified areas. Based on your representations and our review of this information, we conclude the department has demonstrated the information at issue relates 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 and the information you have marked under section 552.101 of the Government Code in conjunction with section 18.182(a) of the Government Code. The remaining submitted 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,



Paige Lay
Assistant Attorney General
Open Records Division

PL/bhf

Ref: ID# 563898

Enc. Submitted documents

c: Requestor
(w/o enclosures)