



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 9, 2015

Ms. Leslie O. Haby
Assistant Criminal District Attorney
Civil Section
Bexar County
101 West Nueva Street, Seventh Floor
San Antonio, Texas 78205

OR2015-18859

Dear Ms. Haby:

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# 578600 (BCDA ID# 4432).

The Bexar County District Attorney's Office (the "district attorney's office") received a request for a video pertaining to a specified murder investigation. You claim the submitted information is excepted from disclosure under sections 552.108 and 552.1085 of the Government Code.¹ Additionally, you state the requested information may implicate the proprietary interests of VIA Metropolitan Transit ("VIA"). Accordingly, you state and provide documentation showing you have notified VIA of the request for information and of its right to submit arguments to this office as to why the requested information should not be released. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have received comments from VIA. We have considered the submitted arguments 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." *Id.* § 552.101. This exception encompasses information made confidential by other statutes,

¹We note although you raise section 552.101, you make no arguments to support this exception. Therefore, we assume you have withdrawn your claim that this exception applies to the submitted information.

including section 418.182 of the Texas Homeland Security Act (the “HSA”). Chapter 418 of the Government Code. Section 418.182 provides, in relevant part:

(a) [I]nformation . . . 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 that information may be related to a security system does not make such 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 exception to disclosure, a claim under any portion of the HSA must be accompanied by an adequate explanation of how the responsive records fall 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).

We understand the submitted video recording reveals the location of security surveillance cameras on VIA buses and the surveillance camera is part of the security system used to protect public property from acts of terrorism or related criminal activity. Upon review, we find the submitted video relates to the specifications or location of a security system used to protect public or private 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 confidential under section 418.182 of the HSA video recording containing images recorded by security cameras in Texas Capitol hallway because specifications of security system included cameras’ capabilities and video recording demonstrated those capabilities through characteristics, quality, and clarity of images recorded). Therefore, the district attorney’s office must withhold the submitted video recording under section 552.101 of the Government Code in conjunction with section 418.182 of the Government Code.²

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

² As our ruling is dispositive, we need not address the arguments against disclosure.

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in cursive script that reads "Ashley Crutchfield".

Ashley Crutchfield
Assistant Attorney General
Open Records Division

AC/dls

Ref: ID# 578600

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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