



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

October 13, 2016

Ms. Dawn Roberts  
Assistant City Attorney  
City of Arlington  
P.O. Box 1065  
Arlington, Texas 76004-1065

OR2016-23038

Dear Ms. Roberts:

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# 631170 (PD Reference No. 28756).

The Arlington Police Department (the "department") received a request for specified video recordings pertaining to the South Police Service Center during a specified time period. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions 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 must address the requestor's contention the department did not comply with the procedural requirements of the Act. Section 552.301 of the Government Code prescribes the procedures a governmental body must follow in asking this office to determine whether information is excepted from public disclosure under the Act. *See id.* § 552.301(a). Pursuant to section 552.301(b), within ten business days of receipt of the request, the governmental body must ask for a decision from this office and state which exceptions apply to the requested information. *Id.* § 552.301(b). Pursuant to section 552.301(e), a governmental body is required to submit to this office within fifteen business days of receiving an open records request (1) written comments stating the reasons why the claimed 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. *See id.* § 552.301(e). The requestor asserts the department received the request for information on July 29, 2016. You state the department received the request on August 1, 2016. The determination of the date the department received the request for information is a question of fact. This office cannot resolve factual disputes in the opinion process. *See Open Records Decision Nos.* 592 at 2 (1991), 552 at 4 (1990), 435 at 4 (1986). Where a fact issue is not resolvable as a matter of law, we must rely on the facts alleged to us by the governmental body requesting our decision, or upon those facts that are discernible from the documents submitted for our inspection. *See* ORD 552 at 4. Thus, we must accept your representation the department received the request for information on August 1, 2016. Accordingly, the department's ten-business-day deadline was August 15, 2016, and its fifteen-business-day deadline was August 22, 2016. The envelope in which you sent the department's request for a ruling bears a postmark of August 15, 2016, and the envelope in which you submitted the information required by section 552.301(e) bears a postmark of August 22, 2016. *See Gov't Code* § 552.308 (describing rules for calculating submission dates of documents sent via first class United States mail, common or contract carrier, or interagency mail). Thus, we conclude the department complied with the requirements of sections 552.301(b) and 552.301(e) of the Government Code.

The requestor also indicates the department did not properly notify him of the request for a ruling from this office and the department failed to provide him with a copy of its written comments stating the reasons why the stated exceptions apply. Pursuant to section 552.301(d) of the Government Code, a governmental body must, within ten business days of receiving the request for information, provide the requestor with (1) a written statement the governmental body wishes to withhold the requested information and has asked for a decision from the attorney general, and (2) a copy of the governmental body's written communication to the attorney general. *Id.* § 552.301(d). Pursuant to section 552.301(e-1), a governmental body that submits written comments to the attorney general under section 552.301(e)(1)(A) must, within fifteen business days of receiving the request for information, send a copy of those comments to the person who requested the information from the governmental body. *Id.* § 552.301 (e-1). We note the department's letters to this office contain notations indicating the requestor was copied on the letters on the aforementioned dates. Whether the department actually sent the requestor copies of the department's letters to our office by August 15, 2016, and August 22, 2016, is also a question of fact. As noted above, this office is unable to resolve factual disputes in the open records ruling process. *See* ORDs 592 at 2, 552 at 4, 435 at 4. Where a fact issue cannot be resolved as a matter of law, we must rely on the facts alleged to us by the governmental body requesting our decision, or upon those facts that are discernible from the documents submitted for our inspection. *See* ORD 552 at 4. As noted above, the submitted information reflects the requestor was copied on the letters to our office concurrent with the timely

deliveries to our office. Thus, we conclude the department complied with the requirements of sections 552.301(d) and 552.301(e-1) of the Government Code.

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. Section 552.101 encompasses 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 (“HSA”). Section 418.182(a) of the Government Code provides, in relevant part, “information . . . 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 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).

The submitted information consists of security camera video recordings from a secured area of the department’s south station. You contend the submitted security camera video recordings are confidential under section 418.182 of the Government Code. You inform us the disclosure of this information would reveal where these security cameras are located, what areas the cameras capture, and other information pertaining to their capabilities. Upon review, we find the submitted video recordings relate 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. *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). Accordingly, the department must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 418.182(a) of the Government Code.<sup>1</sup>

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.

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<sup>1</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure of the submitted information.

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](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,

A handwritten signature in black ink, appearing to read 'Kenny Moreland', written in a cursive style.

Kenny Moreland  
Assistant Attorney General  
Open Records Division

KJM/akg

Ref: ID# 631170

Enc. Submitted documents

c: Requestor  
(w/o enclosures)