



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

December 29, 2016

Ms. Ann-Marie Sheely  
Assistant County Attorney  
County of Travis  
P.O. Box 1748  
Austin, Texas 78767

OR2016-28600

Dear Ms. Sheely:

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# 639689.

The Travis County Judge's Office (the "county judge's office") received a request for the total cost for security provided to a named county judge during a specified time period, including the total number of hours worked and deputies involved. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.152 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>1</sup>

Section 552.152 of the Government Code 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

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<sup>1</sup>We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm.

Gov't Code § 552.152. The county judge's office states the requested information pertains to the security of a county judge who was the victim of an attempted murder. The county judge's office states "[r]elease of a monthly breakdown [of security costs], including the number of hours worked and deputies assigned for her security, would further compromise [the judge's] security because it would detail the levels and specific hours of security for various periods of time." Thus, the county judge's office asserts release of the information at issue would subject the judge to an increased threat of physical harm. Based on your representations and our review, we conclude the county judge's office has demonstrated the release of most of the information at issue would subject the judge to a substantial threat of physical harm. Therefore, except for the information we have marked for release, the county judge's office must withhold the submitted information under section 552.152 of the Government Code.<sup>2</sup> However, we find you have failed to demonstrate the release of the remaining information at issue would subject the judge to a substantial risk of physical harm. Accordingly, the county judge's office may not withhold the information we have marked for release under section 552.152 of the Government Code.

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. Section 552.101 encompasses information made confidential by other statutes. As part of the Texas Homeland Security Act, sections 418.176 through 418.182 were added to chapter 418 of the Government Code. These provisions make confidential certain information related to terrorism. 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 a law enforcement agency, a fire-fighting agency, or an emergency services agency;
- (2) relates to a tactical plan of the provider; or
- (3) consists of a list or compilation of pager or telephone numbers, including mobile and cellular telephone numbers, of the provider.

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<sup>2</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure.

Gov't Code. § 418.176(a). Section 418.177 provides:

Information is confidential if the information:

(1) is collected, assembled, or maintained by or for a governmental entity for the purpose of preventing, detecting, or investigating an act of terrorism or related criminal activity; and

(2) relates to an assessment by or for a governmental entity, or an assessment that is maintained by a governmental entity, of the risk or vulnerability of persons or property, including critical infrastructure, to an act of terrorism or related criminal activity.

*Id.* § 418.177. Section 418.181 provides,

Those documents or portions of documents in the possession of a governmental entity are confidential if they identify the technical details of particular vulnerabilities of critical infrastructure to an act of terrorism.

*Id.* § 418.181. Section 418.182 provides, in relevant part,

(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.

(b) Financial information in the possession of a governmental entity that relates to the expenditure of funds by a governmental entity for a security system is public information that is not excepted from required disclosure under Chapter 552.

*Id.* § 418.182(a), (b). The fact that information may relate to a governmental body's security concerns does not make the information *per se* confidential under the Texas Homeland Security Act. *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 governmental body asserting one of the confidentiality provisions of the Texas Homeland Security Act must adequately explain how the responsive records fall within the scope of the claimed provision. *See* Gov't Code § 552.301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies).

The county judge's office asserts the information at issue relates to security measures taken for a judge. The county judge's office further asserts the information at issue was collected, assembled, and maintained for the purpose of providing security for the judge and to prevent any criminal acts against the judge. Upon review, we find the county judge's office failed to demonstrate the information at issue is confidential under section 418.176, 418.177, 418.181, or 418.182 of the Government Code. Therefore, the county judge's office may not withhold any of the information at issue under section 552.101 of the Government Code in conjunction with section 418.176, 418.177, 418.181, or 418.182 of the Government Code.

In summary, except for the information we have marked for release, the county judge's office must withhold the submitted information under section 552.152 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.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,

  
Britni Ramirez  
Assistant Attorney General  
Open Records Division

BR/bhf

Ref: ID# 639689

Enc. Submitted documents

c: Requestor  
(w/o enclosures)