



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 10, 2017

Ms. Sheila Swan
Administrative Assistant
County of Angelina
P.O. Box 114
Lufkin, Texas 75902-0114

OR2017-05065

Dear Ms. Swan:

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# 648593.

The Angelina County Sheriff's Office (the "sheriff's office") received a request for audio and video recordings of any court proceedings held by a specified judge while at the Angelina County Jail (the "county jail"). The sheriff's office claims the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the claimed exceptions and reviewed the submitted representative sample of information.¹

Initially, we note in the request for information, the requestor states his request to the sheriff's office is not a request for public information. The Act applies to "public information," which is defined in section 552.002 of the Government Code as:

(a) . . . information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

(1) by a governmental body; or

¹We 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 those records contain substantially different types of information than that submitted to this office.

(2) for a governmental body and the governmental body:

(A) owns the information;

(B) has a right of access to the information; or

(C) spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information; or

(3) by an individual officer or employee of a governmental body in the officer's or employee's official capacity and the information pertains to official business of the governmental body.

Gov't Code § 552.002(a). Thus, virtually all of the information in a governmental body's physical possession constitutes public information and thus is subject to the Act. *Id.* § 552.002(a)(1); *see* Open Records Decision Nos. 549 at 4 (1990), 514 at 1-2 (1988). Information is "in connection with the transaction of official business" if the information is created by, transmitted to, received by, or maintained by a person or entity performing official business or a government function on behalf of a governmental body and the information pertains to official business of the governmental body. *See* Gov't Code § 552.002(a-1). Moreover, section 552.001 of the Act provides that it is the policy of this state that each person is entitled, unless otherwise expressly provided by law, at all times to complete information about the affairs of government and the official acts of public officials and employees. *See id.* § 552.001(a).

The submitted information consists of video recordings created by the sheriff's office and are part of the county jail's security system. This information is in the possession of the sheriff's office, which is a governmental body as defined by section 552.003 of the Government Code, and was collected, assembled, or maintained in connection with the transaction of the sheriff's office's official business. *See id.* § 552.003(1)(A)(xii); 552.002(a-1). Therefore, we conclude the submitted information is subject to the Act. We note that a written communication that reasonably can be judged to be a request for public information is a request for information under the Act. Open Records Decision No. 44 at 2 (1974). A governmental body has a duty to make a good faith effort to relate a request for information to information that the governmental body holds. *See* Open Records Decision No. 561 (1990). In this instance, the sheriff's office has submitted information it believes is responsive to the request and made arguments against disclosure of this information. We consider the sheriff's office to have made a good faith effort to identify the information that is responsive to the request. Accordingly, we will consider the sheriff's office'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." Gov't Code § 552.101. This exception encompasses information made confidential by other

statutes, 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 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 governmental body asserting section 418.182 must adequately explain 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).

The sheriff’s office states the submitted video recordings were taken from a security camera as part of the [county] jail’s security system “which is used to protect public and private property . . . from acts of terrorism or related criminal activity.” The sheriff’s office asserts access to the submitted video recordings would “allow private citizens to anticipate weaknesses in the county jail and jeopardize the safety of on-duty peace officers, jail staff, as well as jail inmates.” Upon review, we find the submitted video recordings relate to the location and specifications 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 sheriff’s office must withhold the submitted video recordings 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/>

²As our ruling is dispositive, we need not address the sheriff’s office’s remaining argument against disclosure of the submitted information.

[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,

Gerald A. Arismendez
Assistant Attorney General
Open Records Division

GAA/som

Ref: ID# 648593

Enc. Submitted documents

c: Requestor
(w/o enclosures)