



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 20, 2019

Ms. Elizabeth Lutton
Legal Advisor
Dallas County Sheriff's Office
133 North Riverfront Boulevard LB #31
Dallas, Texas 75207

OR2019-04795

Dear Ms. Lutton:

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# 752376.

The Dallas County Sheriff's Office (the "sheriff's office") received a request for specified surveillance video. You claim the submitted information is excepted from disclosure under sections 552.101, 552.103, 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 submitted by the Dallas County Hospital District d/b/a Parkland Health & Hospital System ("Parkland"). *See* Gov't Code § 552.304 (providing that interested party may submit written comments regarding why information should or should not be released).

Initially, we must address the sheriff's office's obligations under section 552.301 of the Government Code, which prescribes the procedures a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. Pursuant to subsection 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. *See id.* § 552.301(e). You state the sheriff's office received the request for information on November 30, 2018. Accordingly, you were required to provide the information required by subsection 552.301(e) by December 21, 2018. As of the date of this letter, you have not submitted for our review a

copy of the written request for information. Consequently, we find the sheriff's office failed to comply with the requirements of section 552.301 in requesting this decision from our office.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless there is a compelling reason to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ). The sheriff's office claims sections 552.101, 552.103, and 552.108 of the Government Code for the submitted information. Because section 552.101 of the Government Code can provide compelling reasons to overcome the presumption of openness, we will consider its applicability to the submitted information. Furthermore, because the interests of a third party can provide a compelling reason to overcome the presumption of openness, we will consider Parkland's arguments against disclosure. However, we find you have failed to establish a compelling reason to address your remaining claimed exceptions.

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 section encompasses information protected by other statutes, such as 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 in 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.

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 inform us the submitted information consists of surveillance video recordings from cameras that are part of a security system. We understand the security system is used to protect public or private property from an act of terrorism or related criminal activity. You state release of the submitted video recordings would reveal the location and coverage of the

security cameras, and the quality and characteristics of the system's recordings. You also state release of the information would compromise security by "assist[ing] persons who want to commit criminal acts such as [. . .] escape attempts, attempts to breach security and attempts to engage in terrorism." Based on your representations and our review, we conclude the submitted video recordings are related 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.) (recorded images necessarily relate to specifications of security system that recorded them, and thus, are confidential under section 418.182). Accordingly, the sheriff's office must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 418.182(a) of the Government Code.¹

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,



Emily Kunst
Assistant Attorney General
Open Records Division

EK/gw

Ref: ID# 752376

Enc. Submitted documents

c: Requestor
(w/o enclosures)

c: Third Party
(w/o enclosures)

¹As our ruling is dispositive, we need not address the remaining arguments against disclosure.