



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 5, 2019

Mr. Brian Sears
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR2019-09224

Dear Mr. Sears:

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# 755956 (PIR# 19-0003).

The Texas Department of Public Safety (the "department") received a request for all records, including audio and video recordings, pertaining to a specified investigation.¹ Although you take no position regarding whether the submitted information is excepted from disclosure, you state its release may implicate the proprietary interests of LaSalle Southwest Corrections ("LaSalle"). Accordingly, you state, and provide documentation showing, you notified LaSalle of the request and its right to submit arguments to this office. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). You also state you notified Fannin County (the "county") of the request for information. *See* Gov't Code § 552.304 (providing that interested party may submit written comments regarding why

¹We note we asked the department to provide additional information pursuant to section 552.303 of the Government Code. *See* Gov't Code § 552.303(c)-(d) (if attorney general determines information in addition to that required by section 552.301 is necessary to render decision, written notice of that fact shall be given to governmental body and requestor, and governmental body shall submit necessary additional information to attorney general not later than seventh calendar day after date of receipt of notice). We have received and considered the correspondence responsive to that request.

information should or should not be released). We have received comments from LaSalle. 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 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).

LaSalle states it is responsible for operating the Fannin County Jail on behalf of the county. The submitted video recordings consist of recordings from the security camera system inside of the maximum security area of the jail. LaSalle explains the purpose of the security camera system at issue is to protect public property, members of the public, and city employees from acts of terrorism, vandalism, theft, or related criminal activity. LaSalle further states release of the submitted video recordings would reveal the design and layout of the maximum security cells, including specific technical details. We understand LaSalle to argue release of the submitted information would compromise security by serving as a guide to thwart building security. Based on LaSalle’s 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 department must withhold the submitted video recordings under section 552.101 of the Government Code in conjunction with section 418.182(a) 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 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/mo

Ref: ID# 755956

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)

²As our ruling is dispositive, we need not address LaSalle's remaining argument against disclosure.