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June 5, 2019

Mr. Lee I. Correa
Counsel for Van Zandt County
Flowers Davis, P. L. L. C.
1021 ESE Loop 323, Suite 200
Tyler, Texas 75701

OR2019-14821

Dear Mr. Correa:

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# 767180.

The Van Zandt County Sheriff's Office (the "sheriff's office"), which you represent, received a request for specified video footage. The sheriff's office argues, pursuant to section 552.028 of the Government Code, it need not comply with the request for information. Alternatively, the sheriff's office claims the submitted information is excepted from disclosure under sections 552.101 and 552.103 of the Government Code. We have considered the submitted arguments and reviewed the submitted information.

Section 552.028 of the Government Code provides, in relevant part:

(a) A governmental body is not required to accept or comply with a request for information from:

- (1) an individual who is imprisoned or confined in a correctional facility; or
- (2) an agent of that individual, other than that individual's attorney when the attorney is requesting information that is subject to disclosure under this chapter.

(b) This section does not prohibit a governmental body from disclosing to an individual described by Subsection (a)(1), or that individual's agent, information held by the governmental body pertaining to that individual.

Gov't Code § 552.028. The sheriff's office claims the requestor is an agent of an incarcerated individual. *See id.* § 552.028(c) ("correctional facility" is a place for the confinement of a person arrested for, charged with, or convicted of a criminal offense). However, upon review, we find the sheriff's office has failed to establish the requestor is requesting information on behalf of the incarcerated individual at issue. Thus, we find the sheriff's office has failed to demonstrate the request for information was submitted by an agent of an individual who is imprisoned or confined in a correctional facility. Accordingly, we conclude section 552.028 of the Government Code does not permit the sheriff's office to decline to comply with this request.

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 exception encompasses information other statutes make confidential. The sheriff's office claims section 552.101 in conjunction with 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 (the "HSA"). 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 that 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).

The sheriff's office argues the submitted information is confidential under section 418.182 of the Government Code. The sheriff's office explains the information at issue consists of video recordings from security cameras that are located around the jail and are used to protect public property from an act of terrorism or related criminal activity. The sheriff's office states release of the information would enable a viewer to determine the location, video quality and clarity, camera angles, coverage, capabilities, and use of security cameras. Thus,

the sheriff's office argues security would be impacted if the information were released. Based on these representations and our review of the information at issue, we conclude the sheriff's office has demonstrated the submitted information falls within the scope of section 418.182(a). 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 *See generally Tex. Dep't of Pub. Safety v. Abbott*, 310 S.W.3d 670 (Tex. App.—Austin 2010, no pet.) (case construing section 418.182 of the HSA, which ruled recorded images necessarily relate to specifications of security system that recorded them).

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,



Lecelle Clarke
Attorney
Open Records Division

LC/jxd

Ref: ID# 767180

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹As our ruling is dispositive, we need not address the remaining argument against disclosure of this information.