



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 29, 2019

Mr. Evaristo Garcia, Jr.
Assistant City Attorney
City of McAllen
P.O. Box 220
McAllen, Texas 78505-0220

OR2019-24136

Dear Mr. Garcia:

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# 784274 (PIR W028597-062119).

The McAllen Police Department (the "department") received a request for video footage of the department's lobby on a particular date at specified times. You state the department has released a related police report. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, you assert the submitted information was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2016-10262 (2016). Upon review, however, we note the submitted information was not responsive to the request at issue in the prior ruling because it was created after the department received the request at issue in the previous ruling. Accordingly, the department may not rely on Open Records Letter No. 2016-10262 as a previous determination in this instance. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely the same information as was addressed in a prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). Accordingly, we will address your 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 other statutes make confidential. The department 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).

You argue the submitted information is confidential under section 418.182 of the Government Code. You explain the information at issue consists of security camera video recordings of the department’s lobby. You state the cameras at issue are part of the department’s security system, which is used to protect public property from acts of terrorism or related criminal activity. You argue release of the information would reveal specific information about the location and coverage of department security cameras, and would reveal areas not captured by the cameras that may be used to avoid the monitored areas and aid in the act of terrorism or related criminal activity. Based on your representations and our review of the information at issue, we conclude the department has demonstrated the information at issue falls within the scope of section 418.182(a). Accordingly, the department 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.

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

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



Erin Groff

Assistant Attorney General
Open Records Division

EMG/be

Ref: ID# 784274

Enc. Submitted documents

c: Requestor
(w/o enclosures)