



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

December 17, 2019

Ms. Julie P. Doshier  
Counsel for the City of Allen  
Nichols, Jackson, Dillard, Hager & Smith, LLP  
1800 Ross Tower  
500 North Akard Street  
Dallas, Texas 75201

OR2019-35721

Dear Ms. Doshier:

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# 810003 (Ref. No. 112277).

The City of Allen (the "city"), which you represent, received a request for information related to a specified investigation. You state you will redact information pursuant to sections 552.130(c) and 552.147(b) of the Government Code, Open Records Decision No. 684 (2009), and Open Records Letter No. 2018-11817 (2018).<sup>1</sup> You claim portions of the

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<sup>1</sup> Section 552.130(c) of the Government Code allows a governmental body to redact the information described in section 552.130(a) without the necessity of seeking a decision from the attorney general. Gov't Code 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e). Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. *Id.* § 552.147(b). Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold specific categories of information, including an e-mail address of a member of the public under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision. In Open Records Letter No. 2018-11817, this office issued a previous determination authorizing the city to withhold public citizens' dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy without requesting a ruling from this office. *See* Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code).

submitted information are excepted from disclosure under section 552.101 of the Government Code.<sup>2</sup> We have considered the exception you claim and reviewed the submitted representative sample of information.<sup>3</sup>

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 chapter 418 of the Government Code. As part of the Texas Homeland Security Act (the “HSA”), sections 418.176 through 418.182 were added to chapter 418 of the Government Code. These provisions make confidential certain information related to terrorism. Section 418.182 of the Government Code provides the following:

(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.

(b) Financial information in the possession of a governmental entity that relates to the expenditure of funds by a governmental entity for a security system is public information that is not excepted from required disclosure under [the Act].

(c) Information in the possession of a governmental entity that relates to the location of a security camera in a private office at a state agency, including an institution of higher education, as defined by Section 61.003, Education Code, is public information and is not excepted from required disclosure under [the Act] unless the security camera:

(1) is located in an individual personal residence for which the state provides security; or

(2) is in use for surveillance in an active criminal investigation.

*Id.* § 418.182. The fact that information may relate to a governmental body’s security concerns does not make the information *per se* confidential under the HSA. *See* Open Records Decision No. 649 at 3 (1996) (language of confidentiality provision controls scope

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<sup>2</sup> We note, and you acknowledge, the city did not comply with section 552.301 of the Government Code in requesting this decision. *See* Gov’t Code § 552.301(b), (e). Nonetheless, because section 552.101 of the Government Code can provide a compelling reason to overcome the presumption of openness, we will consider its applicability to the submitted information. *See id.* §§ 552.007, .302, .352.

<sup>3</sup> We 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 that those records contain substantially different types of information than that submitted to this office.

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 one of the confidentiality provisions of the HSA must adequately explain how the responsive records fall within the scope of the claimed provision. *See* Gov't Code § 552.301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies).

A portion of the submitted information consists of a security camera video recording belonging to a private residence. You state the recording is part of a security system designed to "detect and deter criminal activity" at this individual's private property. You also state release of the recording at issue "would reveal the video camera placement at this individual's private property [and] would enable a criminal or terrorist to avoid detection while entering or leaving the property." Upon review, we find you demonstrated the submitted video recording 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 for the purposes of section 418.182. Accordingly, the city must withhold the submitted video recording under section 552.101 of the Government Code in conjunction with section 418.182 of the Government Code.

Section 552.101 of the Government Code also encompasses section 730.004 of the Transportation Code, which provides "an agency may not disclose personal information about any person obtained by the agency in connection with a motor vehicle record." Transp. Code § 730.004. "Personal information" means "information that identifies a person," and includes a person's photograph, social security number, driver identification number, name, and address, but does not include a zip code, telephone number, or medical and disability information. *Id.* § 730.003(6). The Department of Public Safety ("DPS") is an "agency" for purposes of chapter 730. *See id.* § 730.003(1) ("agency" is state agency that compiles or maintains motor vehicle records). An authorized recipient of personal information may not re-disclose the personal information and to do so is a misdemeanor offense. *Id.* § 730.013(a), (d). You claim the city is an authorized recipient of personal information contained in motor vehicle records maintained by DPS. Accordingly, the city must withhold the information you have marked under section 552.101 of the Government Code in conjunction with sections 730.004 and 730.013 of the Transportation Code.

In summary, the city must withhold the submitted video recording under section 552.101 of the Government Code in conjunction with section 418.182 of the Government Code and the information you have marked under section 552.101 of the Government Code in conjunction with sections 730.004 and 730.013 of the Transportation Code. The city must release the remaining information.

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 <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,

A handwritten signature in black ink, appearing to read "Tim Neal".

Tim Neal  
Assistant Attorney General  
Open Records Division

TN/gw

Ref: ID# 810003

Enc. Submitted documents

c: Requestor  
(w/o enclosures)