



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 6, 2022

Ms. Trilby Argubright
Counsel for the Forney Independent School District
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P.O. Box 168046
Irving, Texas 75016-8046

OR2022-12983

Dear Ms. Argubright:

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# 943687.

The Forney Independent School District (the "district"), which you represent, received a request for certain information pertaining to a specified incident. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information, some of which consists of a representative sample.¹

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. You claim some of the submitted information is subject to 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) [I]nformation . . . in the possession of a governmental entity that relates to the specifications, operating procedures, or location of a security system

¹ We assume that 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.

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 submitted information includes security video footage from a district campus. You assert release of this information would reveal the location and coverage of the security camera at issue and impact campus security. Upon review, we find the information 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. *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 district must withhold Exhibit E under section 552.101 of the Government Code in conjunction with section 418.182(a) of the Government Code.²

Section 552.101 of the Government Code also encompasses information protected by section 261.201 of the Family Code, which provides, in part, as follows:

(a) [T]he following information is confidential, is not subject to public release under [the Act] and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Fam. Code § 261.201(a). We note Exhibit F may have been used or developed in an investigation of alleged or suspected child abuse or neglect conducted by the district's police department (the "department"). *See id.* §§ 101.003(a) (defining "child" for purposes of this section as person under 18 years of age who is not and has not been married or who

² As our ruling is dispositive, we need not address the remaining argument against disclosure of this information.

has not had the disabilities of minority removed for general purposes), 261.001(1), (4) (defining “abuse” and “neglect” for purposes of chapter 261 of the Family Code). However, we are unable to determine the age of any of the victims in the incident at issue. Accordingly, we must rule in the alternative. If the information at issue involves a victim of alleged abuse or neglect who was a child at the time of the incident at issue, then the information is subject to section 261.201 of the Family Code. In that instance, as you do not indicate the department has adopted a rule that governs the release of this type of information, the district must withhold Exhibit F under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute). However, if the information at issue does not involve a victim of alleged abuse or neglect who was a child at the time of the incident at issue, then the information is not subject to section 261.201, and the district may not withhold Exhibit F under section 552.101 on that basis. In that instance, we will consider the applicability of other exceptions to disclosure of this information.

Section 552.101 of the Government Code also encompasses section 58.008 of the Family Code, which provides, in part:

(b) Except as provided by Subsection (c), law enforcement records concerning a child and information concerning a child that are stored by electronic means or otherwise and from which a record could be generated may not be disclosed to the public and shall be:

(1) if maintained on paper or microfilm, kept separate from adult records;

(2) if maintained electronically in the same computer system as adult records, accessible only under controls that are separate and distinct from the controls to access electronic data concerning adults; and

(3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subsection (c) or Subchapter B, D, or E.

Fam. Code § 58.008(b); *see also id.* § 51.03(a)–(b) (defining “delinquent conduct” and “conduct indicating a need for supervision” for purposes of title 3 of Family Code). Section 58.008(b) is applicable to records of juvenile conduct that occurred before, on, or after September 1, 2017. *See* Act of May 28, 2017, 85th Leg., R.S., ch. 746, § 22. The juvenile must have been at least 10 years old and less than 17 years of age when the conduct occurred. *See* Fam. Code § 51.02(2) (defining “child” for purposes of title 3 of Family Code). We note section 58.008(b) does not apply to law enforcement records that relate to a juvenile involved only as a complainant, victim, witness, or other involved party; rather, the juvenile must be involved as a suspect, offender, or defendant. Upon review, we find Exhibit F involves delinquent conduct or conduct indicating a need for supervision. However, we are unable to determine the age of any of the suspects in the incident at issue. Accordingly, we must rule in the alternative. If any of the suspects at issue were ten years of age or older and under seventeen years of age at the time of the conduct at issue, then,

as it does not appear any of the exceptions in section 58.008 apply, the district must withhold Exhibit F under section 552.101 of the Government Code in conjunction with section 58.008(b) of the Family Code. However, if none of the suspects at issue were ten years of age or older and under seventeen years of age at the time of the conduct, then the information does not involve juvenile conduct for purposes of section 58.008(b) of the Family Code, and the district may not withhold Exhibit F under section 552.101 of the Government Code on that basis. In that instance, we will consider your remaining argument against disclosure of this information.

Section 552.108(a)(1) of the Government Code excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov’t Code § 552.108(a)(1). A governmental body claiming section 552.108(a)(1) must explain how and why this exception is applicable to the information at issue. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state Exhibit F relates to a pending criminal investigation by the district’s police department. Based upon your representation and our review, we conclude release of the information will interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Accordingly, we find the district may withhold Exhibit F under section 552.108(a)(1) of the Government Code.

In summary, the district must withhold Exhibit E under section 552.101 of the Government Code in conjunction with section 418.182(a) of the Government Code. If the information at issue involves a victim of alleged abuse or neglect who was a child at the time of the incident at issue, then the district must withhold Exhibit F under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. If any of the suspects at issue were ten years of age or older and under seventeen years of age at the time of the conduct at issue, then the district must withhold Exhibit F under section 552.101 of the Government Code in conjunction with section 58.008(b) of the Family Code. If the information at issue does not involve a victim of alleged abuse or neglect who was a child at the time of the incident at issue and does not involve any suspects who were ten years of age or older and under seventeen years of age at the time of the conduct at issue, then the district may withhold Exhibit F under section 552.108(a)(1) of the Government Code.

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,

Gerald A. Arismendez
Assistant Attorney General
Open Records Division

GAA/jm

Ref: ID# 943687

Enc. Submitted documents

c: Requestor
(w/o enclosures)