



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 18, 2022

Ms. Debra A. Anderson
Public Information Coordinator
Office of General Counsel
Hays County
111 East San Antonio Street, Suite 202
San Marcos, Texas 78666

OR2022-36156

Dear Ms. Anderson

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# 986013 (ORR# R002927).

The Hays County Sheriff's Office (the "sheriff's office") received a request for its policies and procedures manual. The sheriff's office claims some of the submitted information is excepted from disclosure under sections 552.101 and 552.152 of the Government Code.¹ We have considered the claimed exceptions and reviewed the submitted information.

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. This exception encompasses section 418.182(a) of the Government Code, which provides in relevant part, "information . . . 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 be related

¹ We note the sheriff's office did not comply with the requirements of section 552.301 of the Government Code in raising section 552.152. *See* Gov't Code § 552.301(b). Nevertheless, section 552.152 can provide a compelling reason to overcome the presumption of openness caused by a failure to comply with section 552.301.

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). Upon review, we find some of the submitted information, which we have marked, is confidential under section 418.182(a). Accordingly, the sheriff's office must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 418.182(a) of the Government Code.² However, the remaining information is not confidential under section 418.182(a), and the sheriff's office may not withhold it under section 552.101 on that ground.

Section 552.152 of the Government Code provides the following:

Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from the requirements of Section 552.021 if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm.

Gov't Code § 552.152. Upon review, we find the sheriff's office has failed to demonstrated release of the remaining information would subject an employee or officer of the sheriff's office to a substantial threat of physical harm. Therefore, the sheriff's office may not withhold any of the remaining information under section 552.152 of the Government Code.

In summary, the sheriff's office must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 418.182(a) of the Government Code. The sheriff's office 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

² As our ruling is dispositive, we do not address the other argument of the sheriff's office to withhold this information.

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,

James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/pt

Ref: ID# 986013

Enc. Submitted documents

c: Requestor
(w/o enclosures)