



February 2, 2015

Mr. Guillermo Trevino  
Assistant City Attorney  
City of Fort Worth  
1000 Throckmorton Street, 3rd Floor  
Fort Worth, Texas 76102

OR2015-02015

Dear Mr. Trevino:

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# 554095 (COFW PIR No. W038423).

The City of Fort Worth (the "city") received a request for all correspondence between June 1, 2014, and November 11, 2014, between five named city employees mentioning the performance and employment of the city's police chief, human relations and internal affairs records relating to the city's police chief between December 2008 and December 2014, and the city's public events records and all correspondence therein regarding the city's planning, emergency preparedness, and public safety during the 2012 Super Bowl and mentioning the city's police chief between February 2011 and March 2011.<sup>1</sup> You state the city has released some of the requested information. You also state the city has no information responsive to a portion of the request.<sup>2</sup> You claim the submitted information is excepted from disclosure

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<sup>1</sup>You inform us the requestor was required to make a deposit for payment of anticipated costs for the request under section 552.263 of the Government Code, which the city received on November 20, 2014. *See* Gov't Code § 552.263(e) (if governmental body requires deposit or bond for anticipated costs pursuant to section 552.263, request for information is considered to have been received on date that governmental body receives deposit or bond).

<sup>2</sup>The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983).

under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions 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. Section 552.101 encompasses information other statutes make confidential, such as section 418.177 of the Texas Homeland Security Act (the "HSA"), chapter 418 of the Government Code. Section 418.177 provides as follows:

Information is confidential if the information:

(1) is collected, assembled, or maintained by or for a governmental entity for the purpose of preventing, detecting, or investigating an act of terrorism or related criminal activity; and

(2) relates to an assessment by or for a governmental entity, or an assessment that is maintained by a governmental entity, of the risk or vulnerability of persons or property, including critical infrastructure, to an act of terrorism or related criminal activity.

*Id.* § 418.177. The fact that information may generally be related to emergency preparedness does not make the information *per se* confidential under the provisions of the HSA. *See* Open Records Decision No. 649 at 3 (1996) (language of confidentiality provisions controls scope of its protection). As with any confidentiality statute, a governmental body asserting this section must adequately explain how the responsive information falls within the scope of the provision. *See* Gov't Code § 552.301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies).

You assert the submitted information relates to an assessment of the risk or vulnerability of persons or property to an act of terrorism or related criminal activity. You state the submitted safety management plans "outline security measures designed to enhance public safety during major public events such as the 2012 Super Bowl." You explain the city plans to use the information at issue to plan and assess risks and vulnerabilities of persons and property in anticipation of similar large city events in the future. Upon review, we find you have demonstrated the information at issue was collected, assembled, or maintained by or for a governmental entity for the purpose of preventing, detecting, or investigating an act of terrorism and relates to an assessment of the risk or vulnerability of critical infrastructure to an act of terrorism. Thus, the submitted information is confidential pursuant to section 418.177 of the Government Code and the city must withhold it under section 552.101

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<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 those records contain substantially different types of information than that submitted to this office.

of the Government Code on that basis. As our ruling is dispositive, we need not consider your remaining argument against disclosure.

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](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,



Nicholas A. Ybarra  
Assistant Attorney General  
Open Records Division

NAY/cbz

Ref: ID# 554095

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

