



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 13, 2017

Ms. P. Armstrong
Assistant City Attorney
Criminal Law and Police Section
City of Dallas
1400 South Lamar
Dallas, Texas 75215

OR2017-05192

Dear Ms. Armstrong:

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# 648725 (ORR# C001768-110416).

The City of Dallas (the "city") received a request for e-mails sent by city employees containing specified terms during a specified time period. You claim the submitted information is excepted from disclosure under sections 552.101, 552.117, 552.130, and 552.137 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted representative sample of information.²

¹Although you claim section 552.1175 of the Government Code for portions of the submitted information, we note section 552.117 is the proper exception to raise in this instance because the city holds the submitted information in an employment capacity. Further, while you do not raise section 552.130 of the Government Code in your brief, we understand you to raise this exception based on your markings. Additionally, we note the city did not comply with section 552.301 of the Government Code in requesting a ruling from this office. *See* Gov't Code § 552.301(b), (e). Nonetheless, because sections 552.101, 552.117, 552.130, and 552.137 of the Government Code make information confidential under the Act and, thus, provide compelling reasons to overcome the presumption of openness, we will consider their applicability to the submitted information. *See id.* §§ 552.007, .302, .352.

²We 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.

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 of the Government Code encompasses information protected by other statutes, including section 418.176 of the Texas Homeland Security Act (the “HSA”), chapter 418 of the Government Code. Section 418.176(a) of the Government Code provides, in part, as follows:

(a) Information is confidential if the information is collected, assembled, or maintained by or for a governmental entity for the purpose of preventing, detecting, responding to, or investigating an act of terrorism or related criminal activity and:

...

(2) relates to a tactical plan of the [emergency response] provider[.]

Id. § 418.176(a)(2). The fact that information may generally be related to emergency preparedness does not make the information *per se* confidential under section 418.176. *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 sections 418.176 must adequately explain how the responsive information falls within the scope of the provisions. *See* Gov’t Code § 552.301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies).

You state the submitted information pertains to the type of intelligence gathered by the city’s police department (the “department”) to prevent, detect, investigate, and respond to acts of terrorism or related criminal activity. You inform us disclosure of this information could “interfere with critical communication and intelligence sharing among the department and partner law enforcement agencies[.]” Upon review, we conclude the submitted information was collected, assembled, or maintained by or for the city for the purpose of responding to an act of terrorism or related criminal activity or relates to a tactical plan maintained by the city. *See id.* § 418.176(a)(2). Therefore, the city must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 418.176(a) of the Government Code.³

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.

³As our ruling is dispositive, we need not address your remaining arguments against disclosure of this 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 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,



Ian Lancaster
Assistant Attorney General
Open Records Division

IML/bw

Ref: ID# 648725

Enc. Submitted documents

c: Requestor
(w/o enclosures)