



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 18, 2017

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

OR2017-21334

Dear Ms. Buendia:

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# 676015 (ORR # 2017-07047).

The City of Dallas (the "city") received a request for certain information pertaining to the city's 9-1-1 call center, including staffing schedules and specified policies. You inform us the city has released some information to the requestor pursuant to our ruling in Open Records Letter No. 2017-13355 (2017). *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes information is or is not excepted from disclosure). You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted information.

¹We note 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). Nevertheless, section 552.101 of the Government Code can provide a compelling reason to overcome the presumption of openness. Thus, we will consider the applicability of section 552.101 to the submitted information. *See id.* §§ 552.007, .302, .352.

Initially, we note the requestor asks the city to answer a question. The Act does not require a governmental body to answer factual questions, conduct legal research, or create new information in responding to a request. See Open Records Decision Nos. 563 at 8 (1990), 555 at 1-2 (1990). However, a governmental body must make a good-faith effort to relate a request to any responsive information that is within its possession or control. Open Records Decision Nos. 561 at 8-9 (1990), 555 at 102. We assume the city has made a good-faith effort to do so.

Next, we note some of the requested information may have been the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2017-14223 (2017). In that ruling, we ruled the city must withhold the information at issue under section 552.101 of the Government Code in conjunction with section 418.176 of the Government Code. We have no indication the law, facts, or circumstances on which the prior ruling was based have changed. Thus, to the extent the submitted information is identical to the information previously requested and ruled upon, the city must continue to rely on Open Records Letter No. 2017-14223 as a previous determination and withhold the identical information at issue in accordance with that ruling. See ORD 673. However, to the extent the requested information is not subject to the previous ruling, we will consider the submitted argument against disclosure of the information at issue.

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 section 418.176 of the Government Code, which was added to chapter 418 of the Government Code as part of the Texas Homeland Security Act. Section 418.176 provides, in relevant part:

(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:

(1) relates to staffing requirements of an emergency response provider, including a law enforcement agency, a fire-fighting agency, or an emergency services agency;

(2) relates to a tactical plan of the provider; or

(3) consists of a list or compilation of pager or telephone numbers, including mobile and cellular telephone numbers, of the provider.

Id. § 418.176(a). 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 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 418.176 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).

You argue the submitted information pertains to the staffing requirements of the city's 9-1-1 call center. You state this information is "vital in properly preventing, detecting, responding to, and investigating terrorism and criminal activities." You assert release of this information would highlight vulnerabilities in the city's 9-1-1 call center and interfere with the response to terrorism and criminal activities by the city's police department. Upon review, we find the information at issue pertains to staffing requirements of an emergency response provider. Therefore, the city must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 418.176 of the Government Code.

In summary, to the extent the submitted information is identical to the information previously requested and ruled upon, the city must continue to rely on Open Records Letter No. 2017-14223 as a previous determination and withhold the identical information at issue in accordance with that ruling. The city must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 418.176 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 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,

A handwritten signature in black ink that reads "Cole Hutchison". The signature is written in a cursive style with a long horizontal line extending to the right.

Cole Hutchison
Assistant Attorney General
Open Records Division

CH/sb

Ref: ID# 676015

Enc. Submitted documents

c: Requestor
(w/o enclosures)