



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 2, 2017

Ms. Josi Diaz
Assistant City Attorney
City of Dallas
1400 South Lamar, 6FL, 6W
Dallas, Texas 75215

OR2017-22386

Dear Ms. Diaz:

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# 678145 (ORR# 2017-05401).

The Dallas Police Department (the "department") received a request for the staffing levels at each patrol division at a specified time, as well as demographic data for such staffing. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.152 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted representative sample of information.²

¹We note the department did not comply with the requirements of section 552.301 of the Government Code. *See* Gov't Code § 552.301(b), (e). Nevertheless, sections 552.101 and 552.152 of the Government Code can each provide a compelling reason to overcome the presumption of openness caused by a failure to comply with section 552.301. *See id.* §§ 552.007, .302. Thus, we will consider the department's claim under these sections.

²We 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.

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.

Gov’t Code § 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 patrol staffing requirements and actual patrol staffing numbers for each of the [the department’s] divisions for all watches.” You further state the “information is collected and maintained by [the department] for the purpose of properly preventing, detecting, responding to, and investigating terrorism and related criminal activity.” Upon review, we find the information at issue pertains to staffing requirements of an emergency response provider. Therefore, the department must withhold the submitted information under section 552.101 in conjunction with section 418.176 of the Government Code.³

³As our ruling is dispositive, we need not address your remaining argument against disclosure of this 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 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, appearing to read "Ramsey Abarca", with a long horizontal flourish extending to the right.

Ramsey A. Abarca
Assistant Attorney General
Open Records Division

RAA/eb

Ref: ID# 678145

Enc. Submitted documents

c: Requestor
(w/o enclosures)