



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 4, 2019

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

OR2019-03152

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# 748758 (Ref. No. D027547-102318).

The Dallas Police Department (the “department”) received a request for certain information pertaining to department motorcycles in use on a specified date.¹ You claim the submitted information is excepted from disclosure under sections 552.101 and 552.152 of the Government Code.² We have considered the exceptions you claim and reviewed the submitted representative sample of information.³

¹You state the department sought and received clarification of the request for information. *See Gov’t Code § 552.222(b)* (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used); *City of Dallas v. Abbott*, 304 S.W.3d 380 (Tex. 2010) (holding when governmental entity, acting in good faith, requests clarification of unclear or overbroad request for public information, ten-business-day period to request attorney general opinion is measured from date request is clarified or narrowed).

²We note the department did not comply with section 552.301 of the Government Code in requesting this decision. *See Gov’t Code § 552.301(b), (e)*. Nonetheless, because section 552.101 of the Government Code can provide a compelling reason to overcome the presumption of openness, we will consider its applicability to the submitted information. *See id.* §§ 552.007, .302, .352.

³We 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.” *Id.* § 552.101. This exception 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 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 the staffing requirements of an emergency response provider, including a law enforcement agency, a fire-fighting agency, or an emergency services agency; [or]

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

Id. § 418.176(a)(1)-(2). 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 provision 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 state the submitted information relates to “detailed staffing documents” of the department’s motorcycle squad “collected and maintained by the [department] for the purpose of tracking and deploying officer[s].” You also state release of the information at issue could jeopardize officer and community safety and would affect department officers’ ability to investigate terrorism or related criminal activities. Upon review, we find the submitted information was collected, assembled, or maintained for the purpose of preventing, detecting, responding to, or investigating an act of terrorism or related criminal activity and relates to the staffing requirements of an emergency response provider or to a tactical plan of the provider. Therefore, the department must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 418.176 of the Government Code.⁴

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.

⁴As 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,

A handwritten signature in black ink, appearing to read 'Meredith L. Coffman', with a long horizontal flourish extending to the right.

Meredith L. Coffman
Assistant Attorney General
Open Records Division

MLC/eb

Ref: ID# 748758

Enc. Submitted documents

c: Requestor
(w/o enclosures)