



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 27, 2019

Ms. Ellen H. Spalding
Counsel for the Santa Fe Independent School District
Karczewski Bradshaw Spalding Nichols Lamp Langlois
3700 Buffalo Speedway, Suite 560
Houston, Texas 77098

OR2019-17707

Dear Ms. Spalding:

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# 772480.

The Santa Fe Independent School District (the "district"), which you represent, received a request for any policy or procedure manuals that provide guidelines to district police department (the "department") officers in responding to situations. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.¹

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 protected by other statutes. As part of the Texas Homeland Security Act, sections 418.176 through 418.182 were added to chapter 418 of the Government Code. These provisions make confidential certain information related to terrorism. Section 418.176 provides in relevant part:

¹We 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.

(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). Section 418.177 provides:

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. Section 418.182 provides, in relevant part,

(a) Except as provided by Subsections (b) and (c), information, including access codes and passwords, in the possession of a governmental entity that relates to the specifications, operating procedures, or location of a security system used to protect public or private property from an act of terrorism or related criminal activity is confidential.

(b) Financial information in the possession of a governmental entity that relates to the expenditure of funds by a governmental entity for a security system is public information that is not excepted from required disclosure under Chapter 552.

Id. § 418.182(a), (b). The fact that information may relate to a governmental body's security concerns does not make the information *per se* confidential under the Texas Homeland

Security Act. *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 exception to disclosure, a governmental body asserting one of the confidentiality provisions of the Texas Homeland Security Act must adequately explain how the responsive records fall within the scope of the claimed provision. *See* Gov't Code § 552.301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies).

You explain the information at issue includes the department's "tactical plans for handling intruders, bomb threats, and active shooter situations, among others." You state release of this information "would provide a criminal or terrorist with information about the manner in which to execute a criminal act or act of terrorism," and allow the criminal or terrorist to "plan for the [d]istrict's response and thus achieve maximum casualties." Upon review, we find the information we have marked relates to staffing requirements of a law enforcement agency or a tactical plan of the provider and is 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. Therefore, the district must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 418.176 of the Government Code.² However, we find the district has failed to demonstrate how any of the remaining information relates to staffing requirements or a tactical plan of an emergency response provider. Additionally, we find the district has not demonstrated the remaining information at issue was collected, assembled, or is maintained by or for the district for the purpose of preventing, detecting, or investigating an act of terrorism or related criminal activity and relates to an assessment of the risk or vulnerability of persons or property, including critical infrastructure, to an act of terrorism or related criminal activity. Further, we find the district has failed to demonstrate the remaining information at issue relates to the specifications, operating procedures, or location of a security system used to protect public or private property from terrorism or related criminal activity. Thus, the district may not withhold any of the remaining information under section 552.101 of the Government Code in conjunction with sections 418.176, 418.177, or 418.182 of the Government Code. Accordingly, the district must release the remaining information.

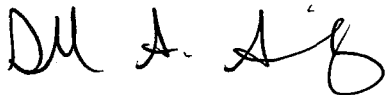
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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/>

²As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

[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 'Gerald A. Arismendez', written in a cursive style.

Gerald A. Arismendez
Assistant Attorney General
Open Records Division

GAA/be

Ref: ID# 772480

Enc. Submitted documents

c: Requestor
(w/o enclosures)