



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

September 30, 2019

Mr. Andrew J. Clark  
Counsel for Spring Fire Department  
Andrews Myers  
Attorneys at Law  
1885 Saint James Place, 15th Floor  
Houston, Texas 77056-4110

OR2019-27261

Dear Mr. Clark:

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# 788364

The Spring Fire Department (the "department"), which you represent, received a request for certain information pertaining to department response times and staffing assignments of department employees. You state the department will release some of the requested information. You claim some of the submitted information is excepted from disclosure under sections 552.101 and 552.159 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information that is made confidential by other statutes. Sections 418.176 through 418.182 were added to chapter 418 of the Government Code as part of the Texas Homeland Security Act (the "HSA"). These provisions make certain information related to terrorism confidential. Section 418.176 of the HSA 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;
- (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 information may be related to a governmental body's emergency response preparedness or security concerns does not make such information per se confidential under the HSA. *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 HSA 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).

The submitted information contains staffing assignments for the department. You state release of the information at issue "would allow a person an unreasonable knowledge of the [d]epartment's staffing for each particular station[.]" You also state the information at issue was created, assembled, or maintained by the department 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 the department. Based on your representations and our review, we find the information at issue is confidential under section 418.176 of the Government Code. Accordingly, the department must withhold the information you marked under section 552.101 of the Government Code on this basis.<sup>1</sup> The department 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.

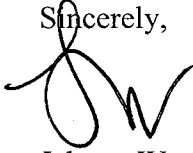
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at <https://www.texasattorneygeneral.gov/open->

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<sup>1</sup> As our ruling is dispositive, we need not address the remaining argument against disclosure of this information.

government/members-public/what-expect-after-ruling-issued or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jahna Ward', with a stylized flourish at the end.

Jahna Ward  
Assistant Attorney General  
Open Records Division

JW/rm

Ref: ID# 788364

Enc. Submitted documents

c: Requestor  
(w/o enclosures)