



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 25, 2019

Mr. James Kopp
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78207

OR2019-33289

Dear Mr. Kopp:

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# 798348 (COSA File No. W280138).

The City of San Antonio (the "city") received a request for information pertaining to 9-1-1 dispatch call recordings. 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 representative sample of information.²

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 section encompasses section 418.177 of the Government Code. Section 418.177 of the Government Code provides:

¹ We note the city did not comply with section 552.301 of the Government Code in requesting a ruling from this office. *See* Gov't Code § 552.301(b). 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.

² We 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 that those records contain substantially different types of information than that submitted to this office.

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. The fact that information may generally be related to emergency preparedness does not make the information *per se* confidential under section 418.177. *See* Open Records Decision No. 649 at 3 (1996) (language of confidentiality provisions controls scope of its protection). As with any confidentiality statute, a governmental body asserting these sections must adequately explain how the responsive information falls within the scope of the provisions. *See* Gov't Code § 552.301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies).

You state the submitted information was collected, assembled, and maintained by the city's police department (the "department") "for the purpose of preventing, detecting, and investigating an act of terrorism or related criminal activity, and it is an assessment maintained by the department of the risk and vulnerability of persons and property to an act of terrorism or criminal activity." You further state "release of this information could assist terrorists and criminals in conducting their own risk analysis, to determine how best to commit a criminal act or act of terrorism[.]" You explain this could be achieved, because the submitted information provides "information as to what times of day have a slower response time, and therefore, how much time is available to commit criminal acts for specific times." Based upon these representations and our review, we find some of the submitted information, which we indicated, was collected, assembled, or maintained by or for the city 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 and property to an act of terrorism or related criminal activity. Accordingly, the city must withhold the information we indicated under section 552.101 of the Government Code in conjunction with section 418.177 of the Government Code. However, we find you failed to establish the remaining information at issue is confidential under section 418.177 of the Government Code. Therefore, the city may not withhold any of the remaining information under section 552.101 of the Government Code in conjunction with section 418.177 of the Government Code. The city 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-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,



D. Michelle Case
Assistant Attorney General
Open Records Division

DMC/jxd

Ref: ID# 798348

Enc. Submitted documents

c: Requestor
(w/o enclosures)