



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 11, 2020

Ms. Laura Garza Jimenez  
County Attorney  
Nueces County  
901 Leopard, Room 207  
Corpus Christi, Texas 78401-3680

OR2020-20005

Dear Ms. Jimenez:

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# 839136.

The Nueces County Judge and the Nueces County Sheriff's Office (collectively, the "county") received a request for a specified security evaluation. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 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 disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. The county raises section 552.101 in conjunction with provisions of the Texas Homeland Security Act (the "HSA"), chapter 418 of the Government Code. Section 418.177 was added to chapter 418 as part of the HSA and provides that information is confidential if it:

- (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 relate to a governmental body’s security measures does not make the information *per se* confidential under the HSA. *See* Open Records Decision No. 649 (1996). 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 county states the submitted information consists of a security assessment of the Nueces County Courthouse (the “courthouse”) conducted for the county that provides a comprehensive assessment of the courthouse’s security. The county also states release of the submitted information would reveal vulnerabilities in the courthouse’s security and affect “law enforcement’s goals of preventing, detecting, and investigating any acts of terrorism or criminal activity.” Upon review, we find the courthouse is critical infrastructure for purposes of section 418.177. *See generally id.* § 421.001(2) (defining “critical infrastructure” to include all public or private assets, systems, and functions vital to security, governance, public health and safety, economy, or morale of state or nation). Thus, we find the county has demonstrated the information at issue consists of an assessment of the risk or vulnerability of persons or property, including critical infrastructure, to an act of terrorism or related criminal activity that must be withheld under section 552.101 of the Government Code in conjunction with section 418.177 of the Government Code.<sup>1</sup>

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,

Meredith L. Coffman  
Assistant Attorney General  
Open Records Division

MLC/rm

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

Ref: ID# 839136

Enc. Submitted documents

c: Requestor  
(w/o enclosures)