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ATTORNEY GENERAL OF TEXAS

August 19, 2022

Mr. Jaime Garcia
Counsel for the United Independent School District
J. Cruz & Associates, L.L.C.
7110 Rocio Drive, #13
Laredo, Texas 78041

OR2022-24927

Dear Mr. Garcia:

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# 967034.

The United Independent School District (the "district"), which you represent, received a request for information pertaining to disciplinary proceedings involving a named individual, job performance assessments regarding the same named individual, a specified policy, and pertaining to the name individual's interaction with said policy. 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 information.

Initially, we note you have submitted only information related to the specified policy. To the extent information responsive to the remainder of the request existed on the date the district received the request, we assume the district has released it. If the district has not released any such information, it must do so at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

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 as part of the HSA. Section 418.176(a) 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). Section 418.177 of the Government Code provides the following:

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 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).

You state the submitted information is "part of the [d]istrict's tactical plan to address an active shooter situation" and that "the information sets forth contingencies, responsibilities, and field responses of [d]istrict law enforcement to an active shooter situation on [d]istrict property." You also state release of this information could be used "to identify and exploit weaknesses in the [d]istrict's response to criminal activity, or the [d]istrict's plan at issue." Upon review, we find the some of the submitted information, which we marked, was collected, assembled, or maintained by a governmental entity for the purpose of preventing, detecting, or investigating an act of terrorism or related criminal activity and relates to a tactical plan of the provider. Accordingly, the district must withhold the information we marked under section 552.101 of the Government Code in conjunction with sections 418.176 and 418.177 of the Government Code. However, we find you have failed to

demonstrate any of the remaining information is subject to section 418.176 or section 418.177 of the Government Code. Therefore, the district may not withhold any of the remaining information under section 552.101 of the Government Code on that basis. 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 <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,

Chase D. Young
Assistant Attorney General
Open Records Division

CDY/jxd

Ref: ID# 967034

Enc. Submitted documents

c: Requestor
(w/o enclosures)