



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 26, 2022

Mr. Naved Qazi
Assistant District Attorney
Dallas County District Attorney's Office
500 Elm Street
Dallas, Texas 75202-3329

OR2022-29764

Dear Mr. Qazi:

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# 973963 (Ref. No. D005954).

Dallas County (the "county") received a request for the county's emergency management plan. The county claims the submitted information is excepted from disclosure under sections 552.101 of the Government Code. We have considered the claimed exception 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. This section encompasses information made confidential by other statutes, such as sections 418.176 and 418.177 of the Government Code, which were added to chapter 418 of the Government Code as part of the Texas Homeland Security Act (the "HSA"). Section 418.176 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 staffing requirements of an emergency response provider, including law enforcement agency, a fire-fighting agency, or an emergency services agency; [or]

(2) relates to a tactical plan of the provider[.]

Id. § 418.176(a)(1)-(2). Section 418.177 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 generally be related to emergency preparedness does not make the information *per se* confidential under the provisions of the HSA. *See* Open Records Decision No. 649 at 3 (1996) (language of confidentiality provisions 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 confidentiality statute, a governmental body asserting this section must adequately explain how the responsive information falls within the scope of the provision. *See* Gov't Code § 552.301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies).

The county claims the submitted emergency management plan is excepted from disclosure under section 552.101 in conjunction with sections 418.176 and 418.177 of the Government Code. The county explains the submitted emergency management plan is the county's "comprehensive approach to deal with all emergencies, which include terrorism response." We understand the county to assert the submitted information consists of the tactical plan of an emergency response provider or of an assessment of vulnerabilities of persons or properties to an act of terrorism or related criminal activity and is maintained by the county for the purpose of preventing, detecting, responding to, or investigating an act of terrorism or related criminal activity. Upon review, we find the county must withhold the submitted information under section 552.101 of the Government Code in conjunction with sections 418.176 and 418.177 of the Government Code.

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,

Sarah E. Reese
Attorney
Open Records Division

SER/mo

Ref: ID# 973963

Enc. Submitted documents

c: Requestor
(w/o enclosures)