



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 13, 2022

Mr. Breanne Daniels
Assistant City Attorney
City of Waco
P.O. Box 2570
Waco, Texas 76702-2570

OR2022-38609

Dear Mr. Daniels:

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# 989022 (Ref. No. LGL 22-117).

The City of Waco (the "city") received a request for three categories of information related to city law enforcement officers. You claim some of 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.

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 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 HSA. These provisions make confidential information related to terrorism. 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 the staffing requirements of an emergency response provider, including a 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). 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 at 3 (1996) (language of confidentiality provision controls scope of its protection). Furthermore, the mere recitation of a statute's key terms is not sufficient to demonstrate the applicability of the claimed provision. As with any exception to disclosure, a claim under section 418.176 must be accompanied by an adequate explanation of 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 release of the information you have marked would reveal the identities of officers in certain specialized units within the city's police department. You explain this information could "afford an individual or perpetrator the ability to anticipate or evade actions of an officer in certain circumstances." Upon review, we find you have demonstrated the information at issue relates to the staffing requirements maintained by or for a governmental entity for the purpose of preventing, detecting, responding to, or investigating and act of terrorism or related criminal activity. Therefore, the city must withhold the information you have marked under section 552.101 in conjunction with section 418.176 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,

Sarah E. Reese
Attorney
Open Records Division

SER/pt

Ref: ID# 989022

Enc. Submitted documents

c: Requestor
(w/o enclosures)