



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 3, 2015

Ms. Josephine Ramirez Solis
Assistant District Attorney
County of Hidalgo
100 North Closner, Room 303
Edinburg, Texas 78539

OR2015-04193

Dear Ms. Solis:

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# 557009 (ORR# 2014-0159-DA.SO).

The Hidalgo County Sheriff's Office (the "sheriff's office") received a request for all Border Incident Assessment Reports ("BIARs") submitted by the sheriff's office during a specified time period. 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 representative sample of information.¹

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. You raise section 552.101 in conjunction with a provision of the Texas

¹We 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 those records contain substantially different types of information than that submitted to this office.

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 id.* § 552.301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies).

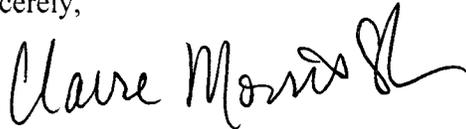
You state the BIARs are incident reports of state and federal operations and a task force initiative called “Border Star.” You state the goal of the task force is to reduce violence and crime along border areas. You further state the BIARs contain operation details, officer narratives, descriptions of suspects and arrestees, time frames of operation initiation and implementation, and gang affiliations of arrestees and suspects. Thus, you state release of this information would allow individuals or criminals to become aware of specific federal and state operations directly related to the detection of border crime. Based on your representations and our review, we find the submitted BIARs relate to an assessment of the vulnerabilities of persons or property to an act of terrorism or related criminal activity and are maintained by the sheriff’s office for the purpose of preventing, detecting, responding to, or investigating an act of terrorism or related criminal activity. Accordingly, the sheriff’s office must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 418.177 of the Government Code.²

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.

²As our ruling is dispositive, we need not address your remaining argument against disclosure of the submitted information.

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 http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink that reads "Claire Morris Sloan". The signature is written in a cursive style with a large, stylized initial "C".

Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/som

Ref: ID# 557009

Enc. Submitted documents

c: Requestor
(w/o enclosures)