



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 20, 2015

Mr. Randall Miller
Assistant Criminal District Attorney
Civil Division
County of Dallas
Administration Building
411 Elm Street, 5th Floor
Dallas, Texas 75202-3317

OR2015-09842

Dear Mr. Miller:

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# 564746.

Dallas County (the "county") received a request for the county's Hazardous Materials and Oil Spill response plan. 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.

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 protected by other statutes, including sections 418.176 and 418.177 of the Texas Homeland Security Act, chapter 418 of the Government Code (the "HSA"). Section 418.176(a) provides the following:

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 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 concerns or emergency management activities 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 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).

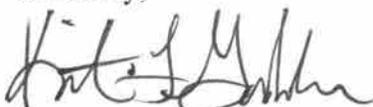
The county claims the submitted Hazardous Materials and Oil Spill response plan is excepted from disclosure under section 552.101 in conjunction with sections 418.176 and 418.177 of the Government Code. The county explains the submitted Hazardous Materials and Oil Spill response plan is part of the county's comprehensive Emergency Management Plan. The county contends release of this information would reveal how the county "would respond to oil spills and hazardous material releases" which may constitute acts of terrorism. We understand the county to assert the submitted information consists of the tactical plan collected, assembled, or maintained for the purpose of responding to an act of terrorism. Upon review, we find the county must withhold the submitted information under

section 552.101 of the Government Code in conjunction with section 418.176 of the Government Code.¹

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 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,



Kristi L. Godden
Assistant Attorney General
Open Records Division

KLG/cz

Ref: ID# 564746

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹As our ruling is dispositive, we need not address your remaining argument against disclosure.