



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 6, 2011

Ms. Cheryl K. Byles  
Assistant City Attorney  
City of Fort Worth  
1000 Throckmorton Street, 3<sup>rd</sup> Floor  
Fort Worth, Texas 76102

OR2011-09527

Dear Ms. Byles:

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# 422806 (Fort Worth PIR No. W007823).

The City of Fort Worth (the "city") received a request for records noting the assignments and total of overtime hours worked by city police officers holding the rank of sergeant, lieutenant, captain, and deputy chief during Super Bowl week and the assignment and total number of overtime hours worked by members of the Super Bowl planning committee. You claim some of the requested 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 information. We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released).

Initially, we note portions of the submitted information do not pertain to officers holding the ranks specified in the request or the assignment and total number of overtime hours worked by members of the Super Bowl planning committee. This information is not responsive to the request for information. This ruling does not address the public availability of any information that is not responsive to the requests, and the city need not release such information in response to this request. Accordingly, we need not address your arguments against disclosure of this 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 exception encompasses information that other statutes make confidential, including section 418.176 of the Texas Homeland Security Act (the “HSA”), chapter 418 of the Government Code. 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 a law enforcement agency, a fire-fighting agency, or an emergency services agency[.]

*Id.* § 418.176(a)(1). 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). 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).

You assert the responsive information reveals staffing requirements of the city’s police department, a law enforcement agency. You explain the responsive information relates to officers who are first responders in emergency situations for the purpose of preventing, detecting, responding to, or investigating an act of terrorism or related criminal activity. The responsive information consists of overtime reports and charts listing the assignments of the police officers at issue during Super Bowl week. You have marked information that reveals the assignments, including locations, of the police officers at issue. Upon review, we find you have demonstrated the responsive information you have marked relates to staffing requirements of a law enforcement agency and that this information was collected by or for a governmental entity for the purpose of preventing, detecting, responding to, or investigating an act of terrorism or related criminal activity. Therefore, the city must withhold the responsive information you have marked under section 552.101 in conjunction with section 418.176 of the Government Code.<sup>1</sup>

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.

---

<sup>1</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure.

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.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "T Wilcox". The signature is fluid and cursive, with the first letter of the first name being a large, stylized "T".

Tamara Wilcox  
Assistant Attorney General  
Open Records Division

TW/dls

Ref: ID# 422806

Enc. Submitted documents

c: Requestor  
(w/o enclosures)