



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 25, 2012

Ms. Griselda Sanchez
Assistant City Attorney
City of San Antonio
9800 Airport Boulevard, MO63
San Antonio, Texas 78216-4897

OR2012-17112

Dear Ms. Sanchez:

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# 469123 (COSA File No. W009465).

The City of San Antonio (the "city") received a request for the post-incident analysis pertaining to the response to the airport bomb threat on August 8, 2012. 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. You raise section 552.101 in conjunction with provisions of the Texas Homeland Security Act (the "HSA"), chapter 418 of the Government Code. Section 418.177 was added to chapter 418 as part of the HSA. This provision makes certain information related to terrorism confidential. Section 418.177 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 be related to a governmental body's emergency response preparedness or security concerns does not make such 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).

You state the submitted information was collected and assembled by the city to detect and investigate a bomb threat made against the city's airport, which is an act of terrorism or related criminal activity. You explain the submitted information contains an assessment of unforeseen circumstances and risks that arose during the implementation of the city's emergency tactical response plan. Based on your representations and our review, we find the city must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 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 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,



Cynthia G. Tynan
Assistant Attorney General
Open Records Division

CGT/akg

Ref: ID# 469123

Enc. Submitted documents

c: Requestor
(w/o enclosures)