



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 14, 2013

Ms. Janie L. Johnson
Assistant Criminal District Attorney
Gregg County Criminal District Attorney's Office
101 East Methvin, Suite 333
Longview, Texas 75601

OR2013-14170

Dear Ms. Johnson:

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# 496520.

Gregg County (the "county") received a request for information pertaining to the county's local emergency planning committee (the "committee"), including its members, bylaws, meetings, training exercises and drills, grant applications and grants received, and budget and expenses, and a copy of the county's emergency management plan during a specified time period.¹ 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 exception encompasses information made confidential by other

¹You state the county sought and received clarification of the information requested. See Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); see also *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

statutes. You raise section 552.101 in conjunction with sections 418.176, 418.177, and 418.181 of the Government Code for information you have marked in the submitted information. These sections were added to chapter 418 of the Government Code as part of the Texas Homeland Security Act (the "HSA"). 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 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. Section 418.177 provides as follows:

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. Section 418.181 provides:

Those documents or portions of documents in the possession of a governmental entity are confidential if they identify the technical details of particular vulnerabilities of critical infrastructure to an act of terrorism.

Id. § 418.181. 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 one of these sections 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 indicate portions of the submitted information consist of staffing requirements and tactical plans of emergency response providers related to the purpose of preventing, detecting, responding to, or investigating an act of terrorism or related criminal activity. Upon review, we find some of the information at issue relates to staffing requirements of emergency response providers maintained by or for a governmental entity for the purpose of preventing, detecting, responding to, or investigating an act of terrorism, or to tactical plans of emergency response providers. Accordingly, this information, which we have marked, is confidential pursuant to section 418.176 of the Government Code and the county must withhold it under section 552.101 of the Government Code. However, we find no portion of the remaining information is confidential pursuant to section 418.176 of the Government Code and the county may not withhold it under section 552.101 of the Government Code on that basis.

You indicate portions of the remaining information relate to an assessment of the risk or vulnerability of persons or property to an act of terrorism or related criminal activity. Upon review, we find some of the remaining information at issue was collected, assembled, or maintained by or for a governmental entity for the purpose of preventing, detecting, or investigating an act of terrorism and relates to an assessment of the risk or vulnerability of critical infrastructure to an act of terrorism. Thus, this information, which we have marked, is confidential pursuant to section 418.177 of the Government Code and the county must withhold it under section 552.101 of the Government Code. However, we find no portion of the remaining information is confidential pursuant to section 418.177 of the Government Code and the county may not withhold it under section 552.101 of the Government Code on that basis.

You indicate the remaining information identifies the technical details of particular vulnerabilities of critical infrastructure to an act of terrorism. Upon review, we find no portion of the remaining information identifies the technical details of particular vulnerabilities of critical infrastructure to an act of terrorism. Thus, none of the remaining information is confidential pursuant to section 418.181 of the Government Code and the county may not withhold it under section 552.101 of the Government Code on that basis.

In summary, the county must withhold the information we marked under section 552.101 of the Government Code in conjunction with sections 418.176 and 418.177 of the Government Code. The remaining information must be released.

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,

A handwritten signature in black ink that reads "Claire Morris Sloan". The signature is written in a cursive style with a long, sweeping underline.

Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/som

Ref: ID# 496520

Enc. Submitted documents

c: Requestor
(w/o enclosures)