

TEXAS DEPARTMENT OF PUBLIC SAFETY

5805 N LAMAR BLVD • BOX 4087 • AUSTIN, TEXAS 78773-0001

512/424-2000

www.dps.texas.gov



STEVEN C. McCRAW
DIRECTOR
SKYLOR HEARN
FREEMAN F. MARTIN
RANDALL B. PRINCE
DEPUTY DIRECTORS



COMMISSION
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MANNY FLORES
A. CYNTHIA LEON
JASON K. PULLIAM
RANDY WATSON

February 27, 2019

Via Email

Ty Clevenger
tyclevenger@yahoo.com

RE: Public Information Request for records related to illegal immigrants working at state capitol restaurant (PIR # 19-0906)

Mr. Clevenger:

The Department received your above-referenced request on February 27, 2019. The Department has located records responsive to your request; however, we believe some or all of the records may be excepted from required public disclosure at this time. We are seeking a ruling from the attorney general's office with respect to disclosure of these records, and a copy of our request letter is enclosed. You will be notified directly by the attorney general's office when a ruling is issued. The enclosed records are the only ones we believe are available to you at this time. These records are provided to you at no cost.

If you have any questions regarding this request, please contact the Media and Communications office at media@dps.texas.gov. Thank you.

Cordially,

A handwritten signature in black ink, appearing to read 'B. Sears'.

Brian Sears
Assistant General Counsel

cc:

Attorney General of Texas
Open Records Division
209 West 14th Street, 6th Floor
Austin, Texas 78701

From: Ty Clevenger <tyclevenger@yahoo.com>
Sent: Wednesday, February 27, 2019 9:43 AM
To: OGC Webmaster; Media And Communications Office
Subject: illegal immigrants working at state capitol

CAUTION: This email was received from an EXTERNAL source, use caution when clicking links or opening attachments.
If you believe this to be a malicious and/or phishing email, please send this email as an attachment to SPAM@dps.texas.gov.

To Whom It May Concern:

I am a blogger (LawFlog.com), and I was recently informed that several illegal immigrants were found working as employees in a restaurant on the state capitol grounds. I was informed that a theft was reported, and when DPS investigators interviewed employees, they discovered that the employees did not have U.S. identification.

I would like to know whether the foregoing information is correct. As permitted by the Texas Public Information Act, I request the opportunity to view all communications, documents or records (electronic or otherwise) regarding the circumstances described above. Thank you.

Ty Clevenger

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February 27, 2019

Via Hand Delivery

Attorney General of Texas
Open Records Division
209 West 14th Street, 6th Floor
Austin, Texas 78701

RE: Public Information Request for records related to illegal immigrants working at state capitol restaurant (PIR # 19-0906)

DATE ORIGINAL REQUEST FOR INFORMATION RECEIVED:	2/11/2019
DATE REQUEST FOR RULING SUBMITTED TO ATTORNEY GENERAL:	2/26/2019
DATE NEW REQUEST FOR INFORMATION RECEIVED:	2/27/2019
DATE FOLLOW-UP SUBMITTED TO ATTORNEY GENERAL:	2/27/2019

Dear Open Records Division:

The Department of Public Safety received the above-referenced request for information from Ty Clevenger on February 27, 2019. The Department previously received a request for this information from Jody Barr on February 11, 2019. A request for ruling was submitted to your office on February 26, 2019, see DPS PIR # 19-0653. As of this date, the Department has not received a ruling regarding the release of the requested records. Accordingly, we are submitting the request from Ty Clevenger for consideration with the previous request.

Please find enclosed the request from Ty Clevenger and the notice of our request for a ruling sent to the requestor. A copy of the basic information has been provided to the requestor. Please feel free to contact me at (512) 424-2890 if you have any questions.

Sincerely,

Brian Sears
Assistant General Counsel

Enclosure(s)

cc: Ty Clevenger

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JASON K. PULLIAM
RANDY WATSON

February 26, 2019

Via Hand Delivery

Attorney General of Texas
Open Records Division
209 West 14th Street, 6th Floor
Austin, Texas 78701

RE: Public Information Request for records related to an investigation into theft allegations from inside the Capitol Grill (PIR # 19-0653)

DATE REQUEST FOR INFORMATION RECEIVED:

2/11/2019

DATE REQUEST FOR RULING SUBMITTED TO ATTORNEY GENERAL:

2/26/2019

Dear Open Records Division:

The Department of Public Safety received the above-referenced request for information from Jody Barr on February 11, 2019. Due to President's Day on February 18, 2019, our offices were closed; therefore, we believe this request for a ruling on disclosure is timely made in accordance with section 552.301 of the Government Code. We believe some or all of the requested information is excepted from required public disclosure pursuant to sections 552.101 and 552.108 of the Government Code. Accordingly, we are requesting a ruling regarding the release of these records.

A copy of the basic information has been provided to the requestor. As a result of the above-referenced incident, charges are pending against one or more individuals. Thus, the Department believes the requested information is excepted from required public disclosure pursuant to section 552.108(a)(1) of the Government Code, which states:

- (a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:
 - (1) release of the information would interfere with the detection, investigation, or prosecution of crime.

Because this is an ongoing criminal case, the release of potential evidence would interfere with the investigation and prosecution of this case. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177, 184-85 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e.*, 536 S.W.2d 559 (Tex. 1976) (per curiam). Consequently, the Department believes these responsive records are excepted from required public disclosure at least until the criminal case is resolved.

Section 552.101 of the Government Code states that “[i]nformation is excepted from the requirements of Section 552.021 if it is information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Section 552.101 encompasses section 418.177 of the Government Code, which states, in relevant part:

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.

Critical infrastructure is defined as “all public or private assets, systems, and functions vital to the security, governance, public health and safety, economy, or morale of the state or the nation.” Gov’t Code § 421.001(2).

The marked records are assessments produced by the Department of the threats facing persons and property from acts of terrorism and related criminal activity. These assessments are created and maintained for the purpose of preventing, detecting, or investigating acts of terrorism or related criminal activity. Release of these records would cause significant harm to the efforts of law enforcement entities to detect, investigate, and prevent acts of terrorism and related criminal activity.

Additionally, the Department believes the marked records are excepted from required public disclosure pursuant to section 552.108(b)(1) of the Government Code, which states:

- (b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from the requirements of Section 552.021 if:
 - (1) release of the internal record or notation would interfere with law enforcement or prosecution.

Section 552.108(b)(1) is intended to protect “information which, if released, would permit private citizens to anticipate weaknesses in [a law enforcement agency], avoid detection, jeopardize officer safety, and generally undermine [law enforcement] efforts to effectuate the laws of this State.” *City of Ft. Worth v. Cornyn*, 86 S.W.3d 320 (Tex. App.—Austin 2002, no pet.). Your office has stated that under the statutory predecessor to section 552.108(b), a governmental body may withhold information that would reveal law enforcement techniques or procedures. *See, e.g.*, Open Records Decision Nos. 531 (1989) (release of detailed use of force guidelines would unduly interfere with law enforcement), 456 (1987) (release of forms containing information regarding location of off-duty police officers in advance would unduly interfere with law enforcement), 413 (1984) (release of sketch showing security measures to be used at next execution would unduly interfere with law enforcement), 409 (1984) (if information regarding certain burglaries exhibit a pattern that reveals investigative techniques, information is excepted under predecessor to section 552.108), 341 (1982)

(release of certain information from Department of Public Safety would unduly interfere with law enforcement because release would hamper departmental efforts to detect forgeries of drivers' licenses), 252 (1980) (predecessor to section 552.108 is designed to protect investigative techniques and procedures used in law enforcement), 143 (1976) (disclosure of specific operations or specialized equipment directly related to investigation or detection of crime maybe excepted).

Revealing these records would provide wrong-doers, drug traffickers, terrorists, and other criminals with invaluable information concerning facilities and infrastructure vulnerabilities, as well as threats to persons; the techniques used to investigate and detect suspected criminal activities; and how information is assessed and analyzed, all of which would allow these groups to anticipate the activities of law enforcement to detect, investigate, and prevent criminal activity. Consequently, the Department believes the marked records should also be excepted from required public disclosure under section 552.108(b)(1) of the Government Code.

Please find enclosed the request from Jody Barr, the notice of our request for a ruling sent to the requestor, and a representative sample of the records we wish to except from required disclosure. We are enclosing copies of the investigation report(s) we wish to withhold. In addition, we wish to withhold all records held as evidence in this case, which are described in the reports. In order to avoid unnecessarily compromising the chain of custody, we have not copied the evidentiary records. However, if you need to review these records in order to determine whether they can be withheld, please contact me immediately, and we will have copies made for you. Please feel free to contact me at (512) 424-2890 if you have any questions.

Sincerely,

Brian Sears
Assistant General Counsel

Enclosure(s)

cc: Jody Barr
KXAN

TEXAS DEPARTMENT OF PUBLIC SAFETY
CRIMINAL INVESTIGATIONS DIVISION

THIS REPORT IS THE PROPERTY OF THE CRIMINAL INVESTIGATIONS DIVISION. NEITHER IT NOR ITS CONTENTS MAY BE DISSEMINATED OUTSIDE THE AGENCY TO WHICH LOANED.			
PREPARED BY:	VICTOR BIBILONISAMBOLIN	INVEST#:	2019I-CID7-50032773
LEVEL 1 SUPERVISOR:	RAMIRO SALDIVAR	REPORT#:	S1
LEVEL 2 SUPERVISOR:	MARK KOENIG	ACTIVITY DATE:	01/04/2019
LEAD INVESTIGATOR:	VICTOR BIBILONISAMBOLIN	DATE WRITTEN:	01/04/2019
SUPERVISOR:	RAMIRO SALDIVAR	DATE APPROVED:	
REPORT TYPE:	INITIAL	REPORT STATUS:	APPROVAL IN PROGRESS
ACTIVITY TYPE:	INVESTIGATIVE	SPURS URN:	CMRE50104078
OTHER ACTIVITY:		LEGACY REF:	
TITLE:	INTERVIEW AND ARREST OF DANIA MARISELA SALINAS PASTRANA ON 01/04/2019, IN AUSTIN, TRAVIS COUNTY, TEXAS JANUARY 4, 2019.	CASE:	
DIVISION:	CRIMINAL INVESTIGATIONS DIVISION	SERVICE:	
REGION:	7	DISTRICT:	C
ACTIVITY LOCATION:	TEXAS STATE CAPITOL 1100 CONGRESS AVE. AUSTIN, TEXAS TRAVIS US - UNITED STATES OF AMERICA (USA) 78701	AREA:	01-AUSTIN

ARRESTS

SALINAS-PASTRANA, DANIA MARICELA - Hispanic/Female - Dob: [REDACTED] - Age at Time of Arrest: 32

Arrest Date: 01/04/2019 Arrested By: Victor Bibilonisambolin - [REDACTED]

Arrest City: Austin Arrest County: Travis

Arrest State: TX Arrest Country: US

Arrest Type: On View

Offense: FRAUD USE/POSS IDENTIFYING INFO NUMB OF ITEMS 5<10

Level/Degree: F3

SYNOPSIS

On 01/03/2019, Texas Department of Public Safety (DPS), Criminal Investigations Division (CID), Special Agent (SA) Victor Bibilonisambolin received SPURS LEAD # 2019L-ICTIS-50006095 reference a report of Theft at the Texas Capitol Grill. During the investigation SA Bibilonisambolin identified DANIA MARISELA SALINAS PASTRANA, who provided a fraudulent identification. SA Bibilonisambolin placed SALINAS PASTRANA under arrest for Fraudulent Use of Possession of Identifying Information. SA Bibilonisambolin conducted a post-arrest custodial interview of SALINAS PASTRANA. SALINAS PASTRANA was transported and booked at Travis County Jail without incident.



INVOLVED LOCATIONS

Texas State Capitol (State)
1100 N CONGRESS AVE
Austin, TX 78628
TEXAS STATE CAPITOL



SUSPECTS

SALINAS-PASTRANA, DANIA MARICELA - Hispanic/Female - [REDACTED]			
Hair: Brown	Eyes: Brown	Weight: 145 lbs	Height: 4' 07"
SSN: [REDACTED]	SID: [REDACTED]	DL#:	DL State: [REDACTED]

PERSONNEL

Victor Bibilonisambolin, Criminal Investigations Division "7"

DPS SENSITIVE