



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 18, 2016

Ms. Cynthia Tynan
Senior Attorney & Public Information Coordinator
Office of General Counsel
The University of Texas System
201 West Seventh Street, Suite 600
Austin, Texas 78701-2901

OR2016-25738

Dear Ms. Tynan:

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# 634860 (DPS PIR# 16-5449, OGC# 17195, 17196, 17197, 17198, 171832, 171864, 171955).

The University of Texas at Austin (the "university") received seven requests for a specified security assessment prepared by the Texas Department of Public Safety (the "department"). You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have also received and considered comments from the department. *See* Gov't Code § 552.304. We have considered the arguments and reviewed the submitted representative sample of information.¹

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. This section encompasses information protected by other statutes. As part of the Texas Homeland Security Act (the "HSA"), sections 418.176 through 418.182 were added

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

to chapter 418 of the Government Code. These provisions make certain information related to terrorism confidential. Section 418.177 of the Government Code provides 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 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 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).

The university and the department assert the submitted information is excepted from disclosure under section 552.101 in conjunction with section 418.177 of the Government Code. On matters of public safety and security, we defer to the representations of law enforcement agencies such as the department. Both the department and the university inform us the submitted information consists of the department's security assessment that identifies existing security measures and vulnerabilities and provides detailed recommendations regarding specific security measures for the university's campus. The department explains the submitted information was created "to identify why a criminal event may have occurred, and then identify measures and actions to mitigate the potential for continued criminal activity or terrorism." The department further explains releasing details of the assessment would allow for the exploitation of vulnerabilities in the university's critical infrastructure and security operations, and thus, "place the critical infrastructure, students, staff, administrators, and security operations and personnel at a substantial risk of harm." Thus, based upon these representations and our review, we find the submitted information was collected, assembled, or maintained by a governmental entity for the purpose of preventing, detecting, or investigating an act of terrorism or related criminal activity and relates to an assessment of the risk or vulnerability of persons and property to an act of terrorism or related criminal activity. Accordingly, the university must withhold the submitted

information under section 552.101 of the Government Code in conjunction with section 418.177 of the Government Code.²

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,



Kelly McWethy
Assistant Attorney General
Open Records Division

KSM/eb

Ref: ID# 634860

Enc. Submitted documents

c: 6 Requestors
(w/o enclosures)

1 Third Party
(w/o enclosures)

²As our ruling is dispositive, we need not address the remaining arguments against disclosure.