



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 10, 2017

Ms. Claudene Marshall
Assistant General Counsel
The Texas A&M University System
301 Tarrow Street, 6th Floor
College Station, Texas 77480-7896

OR2017-03083

Dear Ms. Marshall:

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# 647697 (ORR# W002241-120816).

Texas A&M University (the "university") received a request for security information pertaining to three specified locations. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note you have only submitted a portion of the requested information. To the extent the remaining requested information existed on the date the university received the request, we assume the university has released it. If the university has not released any such information, it must do so at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

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

¹Although you also raise section 552.103 of the Government Code for the submitted information, you provide no arguments explaining how this exception is applicable to the information at issue. Therefore, we assume you no longer assert this exception. *See* Gov't Code §§ 552.301, .302.

Code § 552.101. Section 552.101 of the Government Code encompasses information protected by other statutes, including section 418.176 of the Texas Homeland Security Act, chapter 418 of the Government Code. Section 418.176(a) of the Government Code provides, in part, as follows:

(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 the staffing requirements of an emergency response provider, including a law enforcement agency, a fire-fighting agency, or an emergency services agency;

(2) relates to a tactical plan of the [emergency response] provider[.]

Id. § 418.176(a)(1)-(2). The fact information may generally be related to emergency preparedness does not make the information *per se* confidential under section 418.176. *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 section 418.176 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).

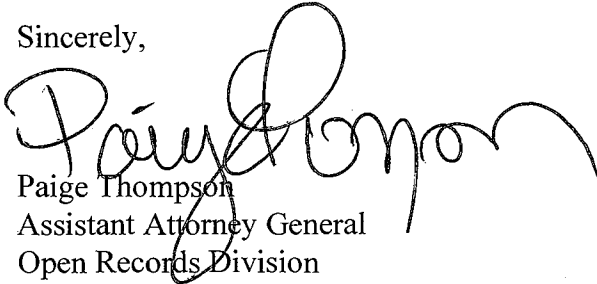
You assert the submitted information was created, assembled, or maintained by the university's police department (the "department"). You explain the submitted information consists of the department's security plans for the specified locations and the plans are collected assembled, or maintained for the purpose of preventing, detecting, responding to, or investigating criminal activity, including acts of terrorism. Upon review, we conclude the submitted information was collected, assembled, or maintained by or for the department for the purpose of responding to an act of terrorism or related criminal activity. *See id.* § 418.176(a)(2)-(3). Therefore, the university must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 418.176(a) 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.

²As our ruling is dispositive, we need not address your remaining arguments against disclosure of the information at issue.

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,



Paige Thompson
Assistant Attorney General
Open Records Division

PT/eb

Ref: ID# 647697

Enc. Submitted documents

c: Requestor
(w/o enclosures)