

The ruling you have requested has been amended as a result of litigation and has been attached to this document.



OFFICE *of the* ATTORNEY GENERAL  
GREG ABBOTT

January 6, 2003

Ms. Carol Longoria  
Public Information Coordinator  
University of Texas System  
201 West 7<sup>th</sup> Street  
Austin, Texas 78701-2981

OR2003-0100

Dear Ms. Longoria:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 174616.

The University of Texas at Austin (the "university") received a request for the following:

All information concerning the location, recording hours and technical specifications of surveillance cameras currently used by the University Police at the University of Texas at Austin and J.J. Pickle Research campuses; all current contracts with companies that provide and operate such surveillance cameras; and the current yearly budget allotted for maintaining the use of such surveillance cameras.

You indicate that most of the requested information does not exist. We note that the Public Information Act does not require a governmental body to make available information which did not exist at the time of the request nor does it require a governmental body to prepare new information in response to a request. *Economic Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.--San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 (1992), 362 (1983); see Gov't Code §§ 552.002, .021, .227, .351. Nevertheless, the university must make a good faith effort to relate a request to the information it holds. Open Records Decision Nos. 561 (1990), 87 (1975); see Gov't Code § 552.353 (providing penalties for failure to permit access to public information). You state that, in this instance, the responsive information is limited to purchase requisition records

and facility specification documents. You claim, however, that these documents are excepted from disclosure under section 552.108 of the Government Code. We have considered your arguments and have reviewed the submitted sample information.<sup>1</sup>

Section 552.108(b)(1) of the Government Code excepts from disclosure the internal records and notations of law enforcement agencies and prosecutors when their release would interfere with law enforcement and crime prevention. Open Records Decision No. 531 at 2 (1989) (quoting *Ex parte Pruitt*, 551 S.W.2d 706, 710 (Tex. 1977)). To demonstrate the applicability of this exception, a governmental body must meet its burden of explaining how and why release of the requested information would interfere with law enforcement and crime prevention. Open Records Decision No. 562 at 10 (1990). This office has concluded that section 552.108(b) excepts from public disclosure information relating to the security or operation of a law enforcement agency. *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 Gov't Code § 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) (Gov't Code § 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 may be excepted). Generally known policies and techniques, however, may not be withheld under section 552.108. *See, e.g.*, Open Records Decision Nos. 531 at 2-3 (1989) (Penal Code provisions, common law rules, and constitutional limitations on use of force are not protected under Gov't Code § 552.108), 252 at 3 (1980) (governmental body did not meet burden because it did not indicate why investigative procedures and techniques requested were any different from those commonly known).

You contend that the responsive information "could be used to thwart security and avoid detection." Specifically, you assert that "knowledge of the measures and tools currently in place reveals where security may be vulnerable and provides a description of what maximum security for a given area may be, and how detection can be circumvented." We note, however, that the purchase requisition documents only reveal the types of cameras purchased and their purchase price. Upon inspection, we find that these documents do not reveal the specific locations of the cameras nor do they reveal the other security measures employed

---

<sup>1</sup>This letter ruling assumes that the submitted sample information is truly representative of the responsive information as a whole. This ruling neither reaches nor authorizes the district to withhold any responsive information that is substantially different from the submitted information. *See* Gov't Code § 552.301(e)(1)(D): Open Records Decision Nos. 499 at 6 (1988), 497 at 4 (1988).

by the university. Thus, after reviewing your arguments and the documents submitted under Tab 6, we conclude that the university has failed to demonstrate the applicability of section 552.108 to the responsive purchase requisition documents. *See also* Gov't Code § 552.022(a)(3)(providing that information in account, voucher, or contract relating to expenditure of public funds is expressly public and may not be withheld under discretionary exceptions, including Gov't Code § 552.108). Therefore, the responsive purchase requisition records must be released.

The university also asserted section 552.108 for the facility specification records submitted under Tab 5. We note, however, that section 552.108 only applies to records of a law enforcement agency or prosecutor. *See* Open Records Decision Nos. 439 (1988), 287 (1981). The submitted facility specification records do not appear on their face to be law enforcement records nor is there any indication in the file that these records are used or maintained by the university's police department. Pursuant to section 552.303(c) of the Government Code, this office notified you via facsimile dated December 20, 2002 that additional information regarding the nature of the documents submitted under Tab 5 was needed. We requested that the additional information be provided to our office within seven calendar days from the date of receiving the notice. *See* Gov't Code § 552.303(d). The notice further stated that failure to submit the requisite information would result in the legal presumption that the information at issue was public. *See* Gov't Code § 552.303(e). As of the date of this letter, we have not received your response. Therefore, as provided by section 552.303(e), we conclude that the responsive facility specification records are presumed public and must also be released.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records

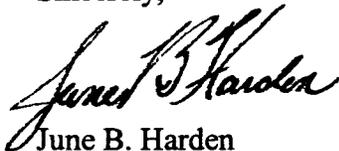
will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



June B. Harden  
Assistant Attorney General  
Open Records Division

JBH/seg

Ref: ID# 174616

Enc: Submitted documents

c: Mr. Jonathan York  
The Daily Texan  
P.O. Box D  
Austin, Texas 78713-8904  
(w/o enclosures)

CAUSE NO. GN300152

THE UNIVERSITY OF TEXAS AT  
AUSTIN, and THE UNIVERSITY OF  
TEXAS SYSTEM,  
Plaintiffs,

V.

GREG ABBOTT, ATTORNEY GENERAL  
OF TEXAS,  
Defendant.

§  
§  
§  
§  
§  
§  
§  
§  
§  
§

IN THE DISTRICT COURT OF  
  
  
  
  
TRAVIS COUNTY, TEXAS  
  
  
261<sup>st</sup> JUDICIAL DISTRICT

Filed in the District Court  
Travis County, Texas  
SEP 14 2006  
M. J. Rodriguez-Mendoza, Clerk

**AGREED FINAL JUDGMENT**

On this date, the Court heard the parties' motion for agreed final judgment. Plaintiffs The University of Texas at Austin and The University of Texas System (collectively, "UT") and Defendant Greg Abbott, Attorney General of Texas, appeared, by and through their respective attorneys, and announced to the Court that all matters of fact and things in controversy between them had been fully and finally compromised and settled. This cause is an action under the Public Information Act (PIA), Tex. Gov't Code Ann. ch. 552. The parties represent to the Court that, in compliance with Tex. Gov't Code Ann. § 552.325(c), the Attorney General sent or attempted to send to the requestor, Jonathan York, General News Reporter for *The Daily Texan*, reasonable notice of this setting and of the parties' agreement that UT must withhold some of the information at issue; that the requestor was also informed of his right to intervene in the suit to contest the withholding of this information; and that the requestor has not informed the parties of his intention to intervene. Neither has the requestor filed a motion to intervene or appeared today. After considering the agreement of the parties and the law, the Court is of the opinion that entry of an agreed final judgment is appropriate, disposing of all claims between these parties.

IT IS THEREFORE ADJUDGED, ORDERED AND DECLARED that:

1. Certain information relating to specifications and location of UT's security systems

in certain named buildings in documents Bates stamped 100001 through 100263, as marked by the Attorney General, is confidential under Tex. Gov't Code § 418.182 and, therefore, is excepted from disclosure by Tex. Gov't Code Ann. § 552.101.

2. UT shall disclose to the requestor the documents described in Paragraph 1 of this Judgment with the information marked by the Attorney General redacted.

3. The remaining responsive information, including documents Bates stamped 000001 through 000679, is subject to disclosure, and if UT has not already done so, UT shall disclose this information promptly to the requestor.

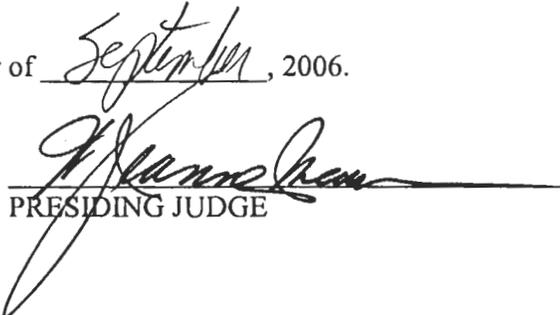
4. UT represents that there is additional information that is potentially responsive to the request for information that is located at the Nuclear Engineering Teaching Laboratory at the Pickle Research Center. UT has not produced this information as it is considered "Safeguards Information" under the Nuclear Regulatory Commission Management Directive 12.6, 10 C.F.R. 73.21. Safeguards information is classified and access is restricted; only individuals with mandatory security clearance may view such documents. *Id.* Based on UT's representations, this information is confidential and not subject to disclosure.

5. All costs of court are taxed against the parties incurring the same;

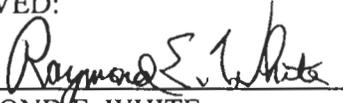
6. All relief not expressly granted is denied; and

7. This Agreed Final Judgment finally disposes of all claims between Plaintiffs and Defendant, is a final judgment, and supercedes the court's previous Order Granting Final Summary Judgment, dated February 27, 2003.

SIGNED this the 14 day of September, 2006.

  
PRESIDING JUDGE

APPROVED:



RAYMOND E. WHITE  
State Bar No. 21321950  
Diamond McCarthy Taylor Finley & Lee LLP  
6504 Bridgepoint Parkway, Ste 400  
Austin, Texas 78730  
Telephone: 617-5200  
Fax: 617-5299  
ATTORNEY FOR PLAINTIFFS



BRENDA LOUDERMILK  
Chief, Open Records Litigation  
Administrative Law Division  
P. O. Box 12548, Capitol Station  
Austin, Texas 78711-2548  
Telephone: 475-4292  
Fax: 320-0167  
State Bar No. 12585600  
ATTORNEY FOR DEFENDANT