



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

May 5, 2011

Mr. R. Brooks Moore
Managing Counsel, Governance
Office of General Counsel
The Texas A&M University System
200 Technology Way Suite 2079
College Station, Texas 77845-3424

OR2011-06219

Dear Mr. Moore:

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# 416586 (TAMU 11-078).

Texas A&M University (the "university") received a request for five categories of information relating to a video surveillance system. You indicate some of the requested information either has been or will be released. You contend the submitted information is not subject to the Act. You also claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered your arguments and reviewed the information you submitted.¹

Initially, we address your claim some of the submitted materials do not constitute "public information" for purposes of the Act. The Act is applicable to "public information." See Gov't Code §§ 552.002, .021. Section 552.002(a) defines "public information" as consisting of

information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

¹This letter ruling assumes the submitted representative samples of information are truly representative of the requested information as a whole. This ruling neither reaches nor authorizes the university to withhold any information that is substantially different from the submitted information. See Gov't Code §§ 552.301(e)(1)(D), .302; Open Records Decision Nos. 499 at 6 (1988), 497 at 4 (1988).

(1) by a governmental body; or

(2) for a governmental body and the governmental body owns the information or has a right of access to it.

Id. § 552.002(a). Thus, virtually all the information in a governmental body's physical possession constitutes public information and is subject to the Act. *Id.* § 552.002(a)(1); *see* Open Records Decision Nos. 549 at 4 (1990), 514 at 1-2 (1988). The Act also encompasses information a governmental body does not physically possess, if the information is collected, assembled, or maintained for the governmental body and the governmental body owns the information or has a right of access to it. Gov't Code § 552.002(a)(2); *see* Open Records Decision No. 462 at 4 (1987). In Open Records Decision No. 581 (1990), this office determined certain computer information, such as source codes, documentation information and other computer programming, that has no significance other than its use as a tool for the maintenance, manipulation, or protection of public property is not the kind of information made public under section 552.021 of the Government Code. *See* ORD 581 at 6 (construing predecessor statute). Although you generally contend information relating to the university's video surveillance system should not be disclosed to the public, we find you have not established that any of the submitted materials consist of computer information that has no significance other than its use as a tool for the maintenance, manipulation, or protection of public property. We therefore conclude the submitted information is subject to the Act and must be released unless it falls within the scope of an exception to public disclosure. *See* Gov't Code §§ 552.002, .021.

You also contend the submitted information is excepted from disclosure under section 552.101 of the Government Code. This section excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," *id.* § 552.101, and encompasses information other statutes make confidential. You claim section 552.101 in conjunction with section 418.182 of the Government Code, which was added to chapter 418 of the Government Code as part of the Texas Homeland Security Act. Section 418.182 provides in part:

(a) Except as provided by Subsections (b) and (c), information, including access codes and passwords, in the possession of a governmental entity that relates to the specifications, operating procedures, or location of a security system used to protect public or private property from an act of terrorism or related criminal activity is confidential.

(b) Financial information in the possession of a governmental entity that relates to the expenditure of funds by a governmental entity for a security system is public information that is not excepted from required disclosure under [the Act].

Id. § 418.182(a)-(b). The fact that information may generally be related to a security system does not make the information *per se* confidential under section 418.182. *See* Open Records

Decision No. 649 at 3 (1996) (language of confidentiality provision controls scope of its protection). As with any confidentiality provision, a governmental body asserting this section must adequately explain how the responsive information falls within the scope of the statute. *See* Gov't Code § 552.301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies).

You state the submitted information relates to the specific locations of security cameras that were strategically positioned in certain areas of the university campus to deter and detect terrorist threats and criminal activity that threaten public and private property and the safety and security of students, faculty, staff, and others. You also state the submitted records reveal the locations and specifications of "a security system set in place for the primary purpose of protection against acts of terrorism or related criminal activity." Based on your representations and our review, we find some of the submitted information falls within the scope of section 418.182(a). We therefore conclude the university must withhold that information, which we have indicated, under section 552.101 of the Government Code in conjunction with section 418.182 of the Government Code. We note some of the remaining information at issue is related to the expenditure of funds by the university for its video surveillance system and thus is subject to disclosure under section 418.182(b) of the Government Code. The remaining information at issue is generally related to the planning, acquisition, and implementation of the video surveillance system. We find you have not demonstrated any of the remaining information at issue relates to the specifications, operating procedures, or location of a security system. *See id.* §§ 552.301(e)(1)(A), 418.182(a). We therefore conclude the university may not withhold any of the remaining information under section 552.101 of the Government Code on the basis of section 418.182 of the Government Code. As you claim no other exception to disclosure, the university must release the remaining information.

We note some of the remaining information appears to be protected by copyright. A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *See* Open Records Decision No. 180 at 3 (1978); *see also* Open Records Decision No. 109 (1975). A custodian of public records also must comply with copyright law, however, and is not required to furnish copies of records that are copyrighted. *See* ORD 180 at 3. A member of the public who wishes to make copies of copyrighted materials must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit.

In summary, the university must withhold the information we have indicated under section 552.101 of the Government Code in conjunction with section 418.182 of the Government Code. The university must release the rest of the submitted information, but any copyrighted information may only be released in accordance with copyright law.

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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in cursive script that reads "James W. Morris III". The signature is written in black ink and includes a long horizontal flourish extending to the right.

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/em

Ref: ID# 416586

Enc: Submitted information

c: Requestor
(w/o enclosures)