



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 9, 2009

Ms. Kari Hutchison
Director, Communications
Comal Independent School District
1404 IH-35 North
New Braunfels, Texas 78130

OR2009-04735

Dear Ms. Hutchison:

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# 343966.

The Comal Independent School District (the "district") received a request for information pertaining to the security cameras at Smithson Valley High School ("SVHS"). You state that some of the requested information either has been or will be released. You claim that the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

We first note that some of the submitted information is related to district schools other than SVHS. Because the requestor specifically seeks information relating to SVHS, the submitted information relating to other district schools is not responsive to this request for information. This decision does not address the public availability of the non-responsive information, which we have marked, and the district need not release that information in response to this request.

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 Code § 552.101. This exception encompasses information that other statutes make confidential. You raise section 552.101 in conjunction with sections 418.177, 418.181, and 418.182 of the Government Code, which were added to chapter 418 of the Government Code as part of the Texas Homeland Security Act. Section 418.177 provides as follows:

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.

Id. § 418.177. Section 418.181 provides as follows:

Those documents or portions of documents in the possession of a governmental entity are confidential if they identify the technical details of particular vulnerabilities of critical infrastructure to an act of terrorism.

Id. § 418.181; *see also id.* § 421.001 (defining critical infrastructure to include “all public or private assets, systems, and functions vital to the security, governance, public health and safety, and functions vital to the state or the nation”). Section 418.182 provides in part:

(a) [I]nformation, 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.

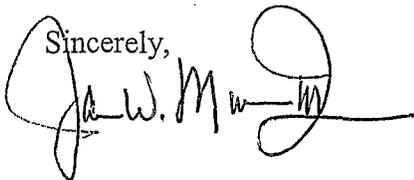
Id. § 418.182(a). The fact that information may generally be related to a risk or vulnerability assessment, critical infrastructure, or a security system does not make the information *per se* confidential under sections 418.177, 418.181, or 418.182. *See* Open Records Decision No. 649 at 3 (1996) (language of confidentiality provision controls scope of its protection). As with any confidentiality statute, a governmental body asserting one of these sections 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 explain that the district maintains a security system at SVHS, the purpose of which is to prevent and detect criminal activities and otherwise ensure the safety of students, employees, and visitors on the campus. You generally contend that the submitted documents, AG-0001 through AG-0006, reveal the location of security cameras. You also assert that AG-0004 reveals potential vulnerabilities of the security system. Additionally, you contend that AG-0005 and AG-0006 contain information relating to the evaluation of the effectiveness of security cameras whose release would jeopardize the safety of students and staff. Having considered your arguments and reviewed the responsive portions of the

submitted documents, we find that AG-0001, AG-0002, AG-0003, and the information that we have marked in AG-0004 are confidential under section 418.182(a) of the Government Code. Therefore, the district must withhold AG-0001, AG-0002, AG-0003 and the marked information in AG-0004 under section 552.101 of the Government Code. We find that you have not established that any of the remaining responsive information is related to the specifications, operating procedures, or location of a security system, for the purposes of section 418.182. Likewise, you have not adequately demonstrated that any of the remaining information assesses the risk or vulnerability of persons or property to an act of terrorism or related criminal activity, for the purposes of section 418.177 of the Government Code, or identifies technical details of particular vulnerabilities of critical infrastructure to an act of terrorism, for the purposes of section 418.181. We therefore conclude that the district may not withhold any of the remaining responsive information under section 552.101 of the Government Code on the basis of section 418.177, section 418.181, or section 418.182 of the Government Code. Thus, because the district has submitted no other arguments against disclosure, the rest of the responsive information must be released.

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 at (512) 475-2497.

Sincerely,


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

JWM/cc

Ref: ID# 343966

Enc: Submitted documents

c: Requestor
(w/o enclosures)