



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 6, 2016

Ms. Josi Diaz
Assistant City Attorney
Criminal Law & Police Section
City of Dallas
1400 South Lamar
Dallas, Texas 75215

OR2016-26959

Dear Ms. Diaz:

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# 636941 (ORR# 2016-10038).

The City of Dallas (the "city") received a request for written correspondence between any employee or representative of the city and anyone with an e-mail address ending in either of two specified domain names during a specified time period. You claim some of the submitted information is excepted from disclosure under section 552.139 of the Government Code.¹ Additionally, you state release of the submitted information may implicate the proprietary interests of Taser. Accordingly, you state you notified Taser of the request for information and of its right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have reviewed the submitted information and the submitted arguments.

¹We note the city did not comply with section 552.301 of the Government Code in requesting a ruling from this office. *See* Gov't Code § 552.301(b), (e). Nonetheless, because the exception you claim, as well as third-party interests, can provide compelling reasons to overcome the presumption of openness, we will consider the claimed exception and the third party's interest. *See id.* §§ 552.007, .302, .352.

Section 552.139 of the Government Code provides, in relevant part:

(a) Information is excepted from [required public disclosure] if it is information that relates to computer network security, to restricted information under Section 2059.055 [of the Government Code], or to the design, operation, or defense of a computer network.

(b) The following information is confidential:

(1) a computer network vulnerability report;

(2) any other assessment of the extent to which data processing operations, a computer, a computer program, network, system, or system interface, or software of a governmental body or of a contractor of a governmental body is vulnerable to unauthorized access or harm, including an assessment of the extent to which the governmental body's or contractor's electronically stored information containing sensitive or critical information is vulnerable to alteration, damage, erasure, or inappropriate use[.]

Gov't Code § 552.139(a), (b)(1)-(2). Section 2059.055 of the Government Code provides, in pertinent part:

(b) Network security information is confidential under this section if the information is:

(1) related to passwords, personal identification numbers, access codes, encryption, or other components of the security system of a state agency;

(2) collected, assembled, or maintained by or for a governmental entity to prevent, detect, or investigate criminal activity; or

(3) related to an assessment, made by or for a governmental entity or maintained by a governmental entity, of the vulnerability of a network to criminal activity.

Id. § 2059.055(b). You state portions of the submitted information, which you have marked, pertain to the city's computer network, including internet protocol addresses from both sides of the city's network connection with its vendors. You state the city's Information Technology department has determined release of this information would pose a security threat because the IP addresses at issue are related to the testing, configuration, and connectivity of the city's body worn camera system. You also argue the data strings appended to some of the e-mail addresses contain "internal e-mail server coding" that should

be protected “to preserve the integrity of [c]ity [c]ommunications.” Based on your arguments and our review of the information, we find some of the information at issue, which we have marked, relates to computer network security, and the design, operation, or defense of the city’s computer network. Accordingly, the city must withhold the information we marked under section 552.139 of the Government Code. However, you have not demonstrated the remaining information you marked relates to the city’s computer network security, or to the design, operation, or defense of the city’s computer network as contemplated in section 552.139(a). Further, you have not demonstrated the remaining information you marked consists of a computer network vulnerability report or assessment as contemplated by section 552.139(b). Accordingly, the city may not withhold any of the remaining information at issue under section 552.139 of the Government Code.

Next, an interested third party is allowed ten business days after the date of its receipt of the governmental body’s notice under section 552.305(d) to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See id.* § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from Taser explaining why the submitted information should not be released. Therefore, we have no basis to conclude Taser has a protected proprietary interest in the submitted information. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3. Accordingly, the city may not withhold the submitted information on the basis of any proprietary interest Taser may have in the information.

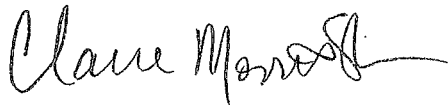
We note some of the materials at issue may be protected by copyright. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. Open Records Decision No. 180 at 3 (1977). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.*; *see* Open Records Decision No. 109 (1975). If a member of the public wishes to make copies of copyrighted materials, the person 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 city must withhold the information we marked under section 552.139 of the Government Code. The city must release the remaining information; however, any information that is subject to copyright may be released only 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.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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/som

Ref: ID# 636941

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)