



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

February 1, 2018

Mr. Jon W. Lawson  
Associate General Counsel  
Texas Department of Motor Vehicles  
4000 Jackson Avenue  
Austin, Texas 78731

OR2018-02317

Dear Mr. Lawson:

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# 694182 (TXDMV ID# 18-0324).

The Texas Department of Motor Vehicles (the "department") received a request for information pertaining to four categories of information regarding bulk requestors. You state you have released some information. You claim some of the submitted information is excepted from disclosure under sections 552.108 and 552.139 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.139 of the Government Code provides:

(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; [and]

(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 governmental entity;
- (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)(2)-(3); *see* Gov't Code § § 2059.055(b)(1). You assert portions of the submitted information, which you marked, are maintained by the department to prevent, detect, and investigate criminal activity. Based on your representations and our review, we find section 552.139 is applicable to the information at issue. Accordingly, the department may withhold the information it marked under section 552.139 of the Government Code.

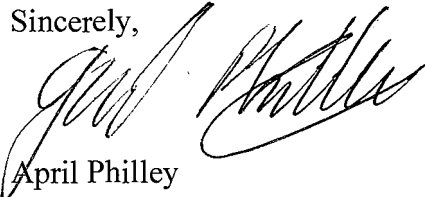
Section 552.108(a)(1) of the Government Code excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov't Code § 552.108(a)(1). A governmental body claiming section 552.108(a)(1) must explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). However, section 552.108 is applicable only to records created by an agency, or portion of an agency, whose primary function is to investigate crimes and enforce criminal laws. *See Open Records Decision Nos. 493 at 2 (1988), 287 (1981)*. The department informs us it “is not a law enforcement agency.” In addition, the department does not inform us any agency with a law enforcement interest seeks to withhold the information at issue. Therefore, we find the department may not withhold any of the information at issue under section 552.108(a)(1) of the Government Code.

In summary, the department may withhold the information it marked under section 552.139 of the Government Code, but must release the remaining information.

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](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,



April Philley  
Assistant Attorney General  
Open Records Division

AP/som

Ref: ID# 694182

Enc. Submitted documents

c: Requestor  
(w/o enclosures)