



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 1, 2019

Ms. ML Calcote
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR2019-21227

Dear Ms. Calcote:

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# 778449 (PIR #19-2107).

The Texas Department of Public Safety (the "department") received a request for information maintained by the department or the Texas Private Security Board (the "board") pertaining to all individuals currently holding a specific class of license.¹ You claim the submitted information is excepted from disclosure under sections 552.101, 552.137, and 552.139 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.²

¹The department sought clarification of the information requested and received a response. *See* Gov't Code § 552.222 (if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *City of Dallas v. Abbott*, 304 S.W.2d 380, 387 (Tex. 2010) (if governmental entity, acting in good faith, requests clarification of unclear or over-broad request, ten-day period to request attorney general ruling is measured from date request is clarified).

²We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

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. Section 552.101 encompasses section 1702.085 of the Occupations Code, which provides as follows:

Records maintained by the department under this chapter on the home address, home telephone number, driver’s license number, or social security number of an applicant or a license holder, registrant, or security officer commission holder are confidential and are not subject to mandatory disclosure under [the Act].

Occ. Code § 1702.085. The department indicates portions of the submitted information consist of the home addresses and home telephone numbers of noncommissioned security officers registered by the board and maintained by the department under chapter 1702 of the Occupations Code. *See id.* §§ 1702.004, .005 (granting department, through the board, power to license and regulate investigations companies and security services contractors). Upon review, we find the information the department seeks to withhold pertains to a registrant as contemplated by chapter 1702. *See id.* §§ 1702.002(19) (defining “registrant” for purposes of chapter 1702 as an individual who has registered with the board under section 1702.221), .221(a), (b)(1)(I) (a noncommissioned security officer must register in accordance with the requirements of chapter 1702). However, we note a post office box number is not a home address for the purposes of section 1702.085. Accordingly, we find except for the post office box numbers, the department must withhold the home addresses and home telephone numbers at issue under section 552.101 of the Government Code in conjunction with section 1702.085 of the Occupations Code. However, we find the post office box numbers are not subject to section 1702.085 and may not be withheld on that basis.

Section 552.139 of the Government Code provides, in 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.

Gov’t Code § 552.139(a). Section 2059.055 of the Government Code provides in 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). The department states it has implemented an online application process called Texas Online Private Security (“TOPS”). The department explains “[i]n order to utilize TOPS, each individual new applicant and current registration holder must provide a unique [e-mail] address. This [e-mail] address is used along with [l]ast name and [d]ate of [b]irth for online access by the applicant/registrant. It is also used for corresponding with the applicant/registrant[.]” The department further states “this [e-mail] is used for both login and the user authentication process” and the department “sends tokens through [e-mail] to the user to verify that they have access to that account in order to login to the system.” Based on these representations and our review of the information, we find the department has demonstrated the information at issue relates to computer network security, restricted information under section 2059.055, or to the design, operation, or defense of the computer network as contemplated in section 552.139(a). Accordingly, the department must withhold the submitted e-mail addresses under section 552.139(a) of the Government Code.³

In summary, with the exception of the post office box numbers, the department must withhold the submitted home addresses and home telephone numbers under section 552.101 of the Government Code in conjunction with section 1702.085 of the Occupations Code. The department must withhold the submitted e-mail addresses under section 552.139(a) of the Government Code. The department must release the remaining information.

Finally, you ask this office to issue a previous determination that would permit the department to withhold from disclosure information made confidential under section 1702.085 of the Occupations Code without the necessity of requesting a decision under section 552.301 of the Government Code. *See* Gov’t Code § 552.301(a) (allowing a governmental body to withhold information subject to previous determination); Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code). We decline to issue such a previous determination at this time. This letter ruling is limited to the particular records at issue in this request and limited to the facts present to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

³As our ruling is dispositive, we need not address the remaining argument against disclosure of the submitted information.

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,

A handwritten signature in black ink that reads "Kimbell Kesling". The signature is written in a cursive style with a large, stylized initial "K".

Kimbell Kesling
Attorney
Open Records Division

KK/EB

Ref: ID# 778449

Enc. Submitted documents

c: Requestor
(w/o enclosures)