



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 11, 2020

Mr. Jeffrey C. Monk
Administration Manager
Houston Police Department
1200 Travis, 10th Floor
Houston, Texas 77002-6000

OR2020-04205

Dear Mr. Monk:

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# 812976 (ORU 19-12590).

The Houston Police Department (the "HPD") received a request for information regarding credit card skimmers during a specified date range. You claim 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.

Initially, we note some of the submitted information is not responsive to the present request because it does not consist of the requested addresses or number of skimmers found at each address. This ruling does not address the public availability of the non-responsive information and the HPD need not release it 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. Section 552.101 encompasses information subject to chapter 607 of the

Business and Commerce Code, which pertains to payment card skimmers on motor fuel dispensers. Section 607.056 provides, in relevant part, as follows:

(a) Except as otherwise provided by this section, information is confidential and not subject to disclosure under Chapter 552, Government Code, if the information is:

(1) from a report received by [the Texas Department of Agriculture (the “department”)] under Section 607.053 or 607.054; or

(2) prepared or compiled by the department in connection with the report or an investigation conducted under this subchapter[.]

Bus. & Comm. Code § 607.056; *see also id.* § 607.001(2) (defining “department” for purposes of chapter 607 of the Bus. & Comm. Code to mean the state agency that is the licensing authority for service companies and service technicians), (7); Agric. Code §§ 1.003(2), 13.451(2)-(3) (designating the Texas Department of Agriculture as licensing authority for service companies and service technicians). We note section 607.054 permits “[a]n interested person to submit a report of the discovery of a skimmer on an unattended payment terminal of a motor fuel dispenser at a merchant’s place of business to the department,” but does not require an interested person do so. *See id.* § 607.054(b); *see also id.* § 607.054(a) (defining “interested person” for purposes of Chapter 607 of the Bus. & Comm. Code).

You state the information at issue consists of information “originating from, and maintained in, [the HPD’s] credit card skimmer database[.]” Upon review, we find you have failed to demonstrate the information at issue was reported to the department pursuant to section 607.053 or section 607.054 of the Business and Commerce Code. Further, we have no indication the information at issue was prepared or compiled by the department in connection with the report or an investigation conducted under subchapter B of chapter 607. Accordingly, we find the responsive information is not confidential pursuant to section 607.056 of the Business and Commerce Code. Therefore, the HPD may not withhold any of the responsive information under section 552.101 of the Government Code on that basis. As you raise no further exceptions to disclosure, the HPD must release the responsive 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable

charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in cursive script that reads "Paige Lay".

Paige Lay
Assistant Attorney General
Open Records Division

PL/gw

Ref: ID# 812976

Enc. Submitted documents

c: Requestor
(w/o enclosures)