



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

July 20, 2020

Mr. William Overton  
Assistant General Counsel  
Office of the General Counsel  
Texas Department of Criminal Justice  
P.O. Box 4004  
Huntsville, Texas 77342-4004

OR2020-18010

Dear Mr. Overton:

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# 836038 (OGC# JN0063).

The Texas Department of Criminal Justice (the "department") received a request for information pertaining to the Unit Classification Committee. You state the department will release some of the requested information. You also state the department will redact certain information subject to sections 552.1175, 552.130, 552.136 and 552.147(b) of the Government Code and pursuant to previous determinations issued by this office, including Open Records Letter No. 2005-01067 (2005).<sup>1</sup> You claim the submitted information is

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<sup>1</sup> Section 552.1175(f) of the Government Code authorizes a governmental body to redact under section 552.1175(b), without the necessity of requesting a decision from this office, the home addresses and telephone numbers, emergency contact information, social security number, date of birth, and family member information of a peace officer as defined by article 2.12 of the Code of Criminal Procedure who properly elects to keep this information confidential. *See* Gov't Code § 552.1175(b), (f). Section 552.130(c) of the Government Code allows a governmental body to redact the information described in section 552.130(a) without the necessity of seeking a decision from the attorney general. *See id.* § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e). Section 552.136(c) of the Government Code allows a government body to redact the information described in section 552.136(b) without the necessity of seeking a decision from this office. *See id.* § 552.136(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.136(e). *See id.* § 552.136(d), (e). Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office. *See id.* § 552.147(b). Open Records Letter No. 2005-01067 serves as a previous determination permitting the department to withhold the present and former home addresses and telephone numbers, social security numbers, and family member information of current or former

excepted from disclosure under sections 552.101, 552.108, and 552.139 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>2</sup>

Initially, you state some of the requested information was the subject of previous requests for a ruling, as a result of which this office issued Open Records Letter Nos. 2013-20258 (2013) and 2016-27136 (2016). In 2013-20258, we determined the department (1) must continue to rely on Open Records Letter No. 2009-12233 as a previous determination and release the identical information in accordance with that ruling, (2) may continue to rely on Open Records Letter No. 2010-05426 as a previous determination and withhold the identical information in accordance with that ruling, and (3) to the extent the submitted information was not previously released, may withhold the submitted information from disclosure under section 552.108(b)(1) of the Government Code. In 2016-27316, we determined, the department (4) may withhold the information we marked under section 552.108(b)(1) of the Government Code and (5) must release the remaining information. You state the law, facts, or circumstances on which the prior rulings were based have not changed. Thus, the department must continue to rely on Open Records Letter Nos. 2013-20258 and 2016-27136 as previous determinations and withhold or release the information at issue in accordance with those rulings. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in a prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

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 made confidential by other statutes, such as section 1304(b) of title 8 of the United States Code. Section 1304(b) of title 8 of the United States Code addresses the confidentiality of the registration documentation of aliens under section 1301 of the United States Code and provides:

All registration and fingerprint records made under the provisions of this subchapter shall be confidential, and shall be made available only

(1) pursuant to section 1357(f)(2) of this title, and

(2) to such persons or agencies as may be designated by the Attorney General.

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employees of the department, regardless of whether they comply with section 552.1175 of the Government Code, under section 552.117(a)(3) of the Government Code without requesting a decision from this office.

<sup>2</sup> We assume that 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.

8 U.S.C. § 304(b). Permanent resident cards are listed in section 264.1(b) of title 8 of the Code of Federal Regulations as documents that constitute evidence of registration. 8 C.F.R. § 264.1(b). Therefore, the department must withhold the permanent resident card and alien registration number you marked under section 552.101 of the Government Code in conjunction with section 1304(b) of title 8 of the United States Code.

Section 552.108(b)(1) of the Government Code excepts from disclosure the internal records and notations of law enforcement agencies and prosecutors when their release would interfere with law enforcement and crime prevention. Gov't Code § 552.108(b)(1); *see also* Open Records Decision No. 531 at 2 (1989) (quoting *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977)). A governmental body claiming section 552.108(b)(1) must explain how and why the release of the requested information would interfere with law enforcement. *See* Gov't Code §§ 552.108(b)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706. Section 552.108(b)(1) is intended to protect “information which, if released, would permit private citizens to anticipate weaknesses in a police department, avoid detection, jeopardize officer safety, and generally undermine police efforts to effectuate the laws of this State.” *See City of Fort Worth v. Cornyn*, 86 S.W.3d 320, 327 (Tex. App.—Austin 2002, no pet.). This office has concluded section 552.108(b)(1) excepts from public disclosure information relating to the security or operation of a law enforcement agency. *See, e.g.*, Open Records Decision Nos. 531 (release of detailed use of force guidelines would unduly interfere with law enforcement), 252 (1980) (section 552.108 of the Government Code is designed to protect investigative techniques and procedures used in law enforcement), 143 (1976) (disclosure of specific operations or specialized equipment directly related to investigation or detection of crime may be excepted). Section 552.108(b)(1) is not applicable, however, to generally known policies and procedures. *See, e.g.*, ORDs 531 at 2–3 (Penal Code provisions, common law rules, and constitutional limitations on use of force not protected), 252 at 3 (governmental body failed to indicate why investigative procedures and techniques requested were any different from those commonly known).

You state the submitted information consists of the department's Unit Classification Procedure Manual, which details how offenders are assigned to specified housing units and “allows the unit to accurately classify the security level for the offender based on the offender's behaviors while in prison.” You state the manual reveals with specificity the “procedures detailing how the [department] collects, codes, and enters data used to identify, classify, and place offenders into appropriate housing and programs.” Thus, the department argues release of the submitted information could “allow offenders to circumvent the enforcement of law or agency policy regarding classification” and would “provide an opportunity for manipulation and deceit of the” prison classification system. Upon review, we find the department has established release of some of the remaining information, which we marked, would interfere with law enforcement. Therefore, the department may withhold the information we marked under section 552.108(b)(1) of the Government Code.<sup>3</sup> However, we find you have not demonstrated release of the remaining information would interfere with law enforcement or crime prevention. Accordingly, the department may not withhold the remaining information under section 552.108(b)(1).

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<sup>3</sup> As our ruling is dispositive, we need not address your remaining argument against disclosure of this 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 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 some of the remaining information pertains to the department's Mainframe system (the "system"), which houses the detailed information pertaining to inmates housed by the department currently and over the past three decades. You explain the system is a "controlled access computer system and has various protocols to ensure [department] personnel have access to information necessary to complete their duties, while denying access to all other information." You state the information you marked is like a "How to Manual" and includes references to various codes, identifiers, applications, designators, and highly sensitive processes. You assert the information you marked consists of network security information and release of this information would essentially provide hackers with "a road map to the system." Upon review, we agree the information at issue pertains to computer network security. Accordingly, the department

must withhold the information you marked under section 552.139(a) of the Government Code.

In summary, the department must continue to rely on Open Records Letter Nos. 2013-20258 and 2016-27136 as previous determinations and withhold or release the information at issue in accordance with those rulings. The department must withhold the permanent resident card and alien registration number you marked under section 552.101 of the Government Code in conjunction with section 1304(b) of title 8 of the United States Code. The department may withhold the information we marked under section 552.108(b)(1) of the Government Code. The department must withhold the information you marked under section 552.139(a) of the Government Code. The department must release the remaining information.

You also ask this office to issue a previous determination permitting the department to withhold alien registration information pursuant to section 552.101 of the Government Code in conjunction with section 1304(b) of title 8 of the United States Code without seeking a ruling from this office. *See id.* § 552.301(a) (allowing governmental body to withhold information subject to previous determination); ORD 673 (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. Accordingly, 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,

Emily Kunst  
Assistant Attorney General  
Open Records Division

EK/be

Ref: ID# 836038

Enc. Submitted documents

c: Requestor  
(w/o enclosures)