



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 12, 2022

Mr. Brian Sears
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR2022-13701

Dear Mr. Sears:

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# 947170 (PIR 22-0520).

The Texas Department of Public Safety (the "department") received a request for five categories of information pertaining to specified subjects. You have released some information. You state you do not have information responsive to a portion of the request.¹ You claim the submitted information is excepted from disclosure under section 552.139 of the Government Code. Additionally, you state release of the submitted information may implicate the proprietary interests of the Texas Department of Emergency Management. Accordingly, you state, and provide documentation showing, the department notified the third party of the request for information and of the 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

¹ The Act does not require a governmental body to release information that did not exist when a request for information was received, create responsive information, or obtain information that is not held by or on behalf of the district. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision No. 452 at 3 (1986).

of exception in the Act in certain circumstances). We have considered the claimed exception and reviewed the submitted representative sample of information.²

We note 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) of the Government Code to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from the third party explaining why the submitted information should not be released. Therefore, we have no basis to conclude the party has protected proprietary interests in the submitted information. *See, e.g., id.* § 552.110 (requiring the provision of specific factual evidence demonstrating the applicability of the exception). Accordingly, the department may not withhold any portion of the submitted information on the basis of any proprietary interest the third party may have in the 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;

(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; [and]

...

(4) information directly arising from a governmental body's routine efforts to prevent, detect, investigate, or mitigate a computer security incident, including information contained in or derived from an information security log.

² We 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.

Id. § 552.139(a), (b)(1)-(2), (4). 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). You state the information you marked includes “unique usernames that allow access to the Texas Law Enforcement Telecommunications System (“TLETS”)” which provides “intrastate interconnectivity for criminal justice agencies.” You assert this information is protected from required disclosure because “the usernames are provided to facilitate access to TLETS.” You also state the remaining information you marked includes “sensitive information concerning the design, operation, and defense of an entities computer network allowing for access to TLETS.” You assert release of this information “would provide a roadmap for hackers to harm the computer system and in turn pose a security threat to the [d]epartment.” Upon review, we find the information we have marked relates to computer network security or the design, operation, or defense of a computer network. Accordingly, the department must withhold the information we have marked under section 552.139 of the Government Code. However, we find you have failed to demonstrate the remaining information at issue relates to computer network security, or to the design, operation, or defense of a computer network as contemplated by 552.139(a), consists of a network vulnerability report or assessment as contemplated by section 552.139(b), or relates to restricted information under 2059.055. Further, we find you have failed to demonstrate the information at issue relates to routine efforts to prevent, detect, investigate, or mitigate a computer security incident. Accordingly, section 552.139 is not applicable to the remaining information and the department may not withhold it on that basis. The department 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 <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,

Sarah E. Reese
Attorney
Open Records Division

SER/be

Ref: ID# 947170

Enc. Submitted documents

c: Requestor
(w/o enclosures)