



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 24, 2012

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

OR2012-05787

Dear Ms. Goins:

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# 451619 (PIR# 12-0386).

The Department of Public Safety (the "department") received a request for (1) the career history of a named department employee, including positions held, pay rate, and qualifications; (2) all emails and correspondence from the last legislative session between the named department employee and a named state representative, a member of her staff, any member of the Public Safety Commission regarding the Inspector General's chain of command when reporting investigations; (3) the racial and gender "breakdown" of employees within the department who are not certified officers; (4) the racial and gender breakdown of officers assigned to Capitol security; (5) the most recent internal audit of the driver's license department; (6) the names and duty stations of all members of criminal intelligence; and (7) the present duty station and position for a named department employee, different from the employee named in categories one and two of the request. The department has released information responsive to items 1, 3, 4, 6, and 7 of this request. You state the department will redact information as permitted by Open Records Decision No. 670 (2001).¹

¹Open Records Decision No. 670 authorizes all governmental bodies to withhold the current and former home addresses and telephone numbers, personal cellular telephone and pager numbers, social security numbers, and family member information of peace officers under section 552.117(a)(2) of the Government Code without the necessity of requesting an attorney general decision. ORD 670 at 6.

You claim that some of the submitted information is excepted from disclosure under sections 552.106 and 552.139 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.106(a) of the Government Code excepts from required public disclosure “[a] draft or working paper involved in the preparation of proposed legislation[.]” Gov’t Code § 552.106(a). Section 552.106(a) ordinarily applies only to persons with a responsibility to prepare information and proposals for a legislative body. *See* Open Records Decision No. 460 at 1 (1987). The purpose of this exception is to encourage frank discussion on policy matters between the subordinates or advisors of a legislative body and the members of the legislative body; therefore, section 552.106 encompasses only policy judgments, recommendations, and proposals involved in the preparation of proposed legislation and does not except purely factual information from public disclosure. *Id.* at 2. However, a comparison or analysis of factual information prepared to support proposed legislation is within the ambit of section 552.106. *Id.*

You state portions of Attachment A include information that constitutes drafts and working papers involved in the preparation of proposed legislation from the department’s Inspector General to the state representative named in the request, and is related to legislation affecting the Office of Inspector General and its enabling statute. You state the marked information consists of drafts, comments, policy judgments, recommendations, and advice pertaining to the proposed legislation. Based on these representations and our review, we agree that the department may withhold the information you have marked under section 552.106 of the Government Code.

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. 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.

Gov't Code § 2059.055(b). You assert Attachment B of the submitted information discusses "vulnerabilities in the [d]epartment's information security for the Driver License System program." You state this information assesses aspects of system security including system ownership, identity and access management, exchange of sensitive data, and quality assurance and security testing. Based on your representations and our review, we find you have demonstrated Attachment B relates to computer network security, the design, operation, or defense of the department's computer network, or an assessment of the department's computer network vulnerabilities. Accordingly, the department must withhold Attachment B under section 552.139 of the Government Code.

In summary, the department may withhold the information you have marked under section 552.106 of the Government Code. The department must also withhold Attachment B in its entirety under section 552.139 of the Government Code. The remaining information must be released.

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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jeffrey W. Giles".

Jeffrey W. Giles
Assistant Attorney General
Open Records Division

JWG/dls

Ref: ID# 451619

Enc. Submitted documents

c: Requestor
(w/o enclosures)