



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 28, 2013

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

OR2013-14971

Dear Ms. Cost:

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# 498016 (DPS PIR No. 13-2372).

The Texas Department of Public Safety (the "department") received a request for information regarding cyber incidents, breaches or threats during a specified time period. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.139 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information. We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released).

Initially, we note the requestor asks the department to answer a question. The Act does not require a governmental body to answer factual questions, conduct legal research, or create new information in responding to a request. *See* Open Records Decision Nos. 563 at 8 (1990), 555 at 1-2 (1990). However, a governmental body must make a good-faith effort to relate a request to any responsive information that is within its possession or control. Open Records Decision Nos. 561 at 8-9 (1990), 555 at 102. We assume the department has made a good-faith effort to do so.

Next, we note the requestor contends some of the requested information may be subject to section 552.022(a)(17) of the Government Code. Section 552.022(a)(17) provides for the required public disclosure of "information that is also contained in a public court record," unless it is "made confidential under [the Act] or other law[.]" Gov't Code § 552.022(a)(17).

You have submitted internal department e-mails. Upon review, we find this information is not information that is also contained in a public court record, as contemplated by section 552.022(a)(17). Even assuming the information at issue was subject to section 552.022(a)(17), we note sections 552.101 and 552.139 make information confidential under the Act, and therefore, we would still consider the applicability of these sections to this information.

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.

(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[.]

Id. § 552.139(a), (b)(1)–(2). 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). You state the submitted information consists of discussions of information technology security incidents within the department, including information about the detection of and response to threats. You explain the submitted information reveals vulnerabilities in the department's information technology structure, including assessments of the extent to which the department's information technology programs and systems are vulnerable to alteration, damage, erasure, or inappropriate use, and provides insight into the operation and defense of the computer network. Based on your representations and our review of the information, we find you have demonstrated the submitted information 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 the submitted information under section 552.139 of the Government Code. As our ruling is dispositive, we do not address your remaining arguments.

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.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,



David L. Wheelus
Assistant Attorney General
Open Records Division

DLW/dls

Ref: ID# 498016

Enc. Submitted documents

c: Requestor
(w/o enclosures)