

State Laws Protecting Water Security Information



Association of Metropolitan Water Agencies



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Association of Metropolitan Water Agencies

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Forward

In August 2002, the Association of Metropolitan Water Agencies (AMWA) published *State FOIA Laws: A Guide to Protecting Sensitive Water Security Information*. Since then AMWA has collected legislative language enacted by several States and has compiled it as *State Laws Protecting Water Security Information*.

The goal of the original guide was to discuss how to reinforce public disclosure laws to protect vulnerability assessments and other sensitive information related to critical infrastructure protection. That document provided background information and model legislation. But many States have yet to enact such legislation. Hence, AMWA is publishing this compilation of legislative language to demonstrate what can be achieved.

Printed here are excerpts of most of the statutes enacted in 2002 and 2003 to protect sensitive information that could be used to disrupt or destroy drinking water systems. This is especially important given the mandate by Congress in the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 to conduct vulnerability assessments and update emergency response plans to account for possible terrorist events.

This document and the original are both available at www.amwa.net/security.

I hope utility managers find this publication helpful in their efforts to protect sensitive information.



Diane VanDe Hei
Executive Director
Association of Metropolitan Water Agencies

AMWA, established two decades ago, is an organization of the nation's largest water agencies, which are represented within the association by chief executives. Since AMWA became the water sector's liaison to the federal government in 1998, the association has worked closely with utilities, other water associations and federal agencies on security matters. AMWA also developed and operates the Water Information Sharing and Analysis Center (WaterISAC), a secure security threat information service at www.WaterISAC.org.

Alaska

Alaska Statute, Sec. 40.25.120. Public records; exceptions; certified copies.

(a) Every person has a right to inspect a public record in the state, including public records in recorders' offices, except:

...

(10) records or information pertaining to a plan, program, or procedures for establishing, maintaining, or restoring security in the state, or to a detailed description or evaluation of systems, facilities, or infrastructure in the state, but only to the extent that the production of the records or information:

(A) could reasonably be expected to interfere with the implementation or enforcement of the security plan, program, or procedures;

(B) would disclose confidential guidelines for investigations or enforcement and the disclosure could reasonably be expected to risk circumvention of the law; or

(C) could reasonably be expected to endanger the life or physical safety of an individual or to present a real and substantial risk to the public health and welfare.

Arkansas

Arkansas Code, 25-19-105. Examination and copying of public records.

(b) It is the specific intent of this section that the following shall not be deemed to be made open to the public under the provisions of this chapter:

...

(15) (A) Records, including analyses, investigations, studies, reports, recommendations, requests for proposals, drawings, diagrams, blueprints, and plans, containing information relating to security for any public water system.

(B) The records shall include:

(i) Risk and vulnerability assessments;

(ii) Plans and proposals for preventing and mitigating security risks;

(iii) Emergency response and recovery records;

(iv) Security plans and procedures; and

(v) Any other records containing information that, if disclosed, might jeopardize or compromise efforts to secure and protect the public water system.

(C) Subdivision (b)(15) of this section shall expire on July 1, 2005.

Arizona

Arizona Revised Statutes, Section 49-205. Availability of information to the public.

A. Any records, reports or information obtained from any person under this chapter, including records, reports or information obtained or prepared by the director or a department employee, shall be available to the public, except that:

...

2. Drinking water system security vulnerability assessments that are submitted to the United States Environmental Protection Agency, pursuant to Public Law 107-188, are exempt from disclosure under this chapter and Title 39, Chapter 1.

Colorado

Revised Statutes, Section 24-72-204. Allowance or denial of inspection - grounds - procedure - appeal.

(2) (a) The custodian may deny the right of inspection of the following records, unless otherwise provided by law, on the ground that disclosure to the applicant would be contrary to the public interest:

...

(XVII) Specialized details of security arrangements or investigations. Nothing in this subparagraph (XVII) shall prohibit the custodian from transferring such records to the office of preparedness, security, and fire safety in the department of public safety, the governing body of any city, county, or city and county, or any federal, state, or local law enforcement agency; except that the custodian shall not transfer an record received from a non-governmental entity without the prior written consent of such entity unless such information is already publicly available. For purposes of this section, records received by or provided to the office of preparedness, security, and fire safety in the department of public safety from any source in connection with the performance of its duties and records received by any state agency or political subdivision of the state from or on behalf of the office of preparedness, security, and fire safety in connection with the performance of its duties shall constitute specialized details of security arrangements or investigations.

Connecticut

General Statutes of Connecticut, Section 1-210. Access to public records. Exempt records.

(b) Nothing in the Freedom of Information Act shall be construed to require disclosure of:

...

(19) Records when there are reasonable grounds to believe disclosure may result in a safety risk, including the risk of harm to any person, any government-owned or leased institution or facility or any fixture or appurtenance and equipment attached to, or contained in, such institution or facility, except that such records shall be disclosed to a law enforcement agency upon the request of the law enforcement agency. . . . As used in this section, "government-owned or leased institution or facility" includes. . . a water company. . . , or a municipal utility that furnishes electric, gas or water service[.] Such records include, but are not limited to:

- (i) Security manuals or reports;
- (ii) Engineering and architectural drawings of government-owned or leased institutions or facilities;
- (iii) Operational specifications of security systems utilized at any government-owned or leased institution or facility, except that a general description of any such security system and the cost and quality of such system, may be disclosed;
- (iv) Training manuals prepared for government-owned or leased institutions or facilities that describe, in any manner, security procedures, emergency plans or security equipment;
- (v) Internal security audits of government-owned or leased institutions or facilities;
- (vi) Minutes or records of meetings, or portions of such minutes or records, that contain or reveal information relating to security or other records otherwise exempt from disclosure under this subdivision;
- (vii) Logs or other documents that contain information on the movement or assignment of security personnel at government-owned or leased institutions or facilities;
- (viii) Emergency plans and emergency recovery or response plans; and
- (ix) With respect to a water company, as defined in section 25-32a, that provides water service: Vulnerability assessments and risk management plans, operational plans, portions of water supply plans . . . that contain or reveal information the disclosure of which may result in a security risk to a water company, inspection reports, technical specifications and other materials that depict or specifically describe critical water company operating facilities, collection and distribution systems or sources of supply;

(20) Records of standards, procedures, processes, software and codes, not otherwise available to the public, the disclosure of which would compromise the security or integrity of an information technology system.

...

(d) Whenever a [state] public agency, except the Judicial Department or Legislative Department, receives a request from any person for disclosure of any records described in subdivi-

Connecticut (continued)

sion (19) of subsection (b) of this section under the Freedom of Information Act, the public agency shall promptly notify the Commissioner of Public Works of such request, in the manner prescribed by the commissioner, before complying with the request as required by the Freedom of Information Act and for information related to a water company. . . , the public agency shall promptly notify the water company before complying with the request as required by the Freedom of Information Act. If the commissioner, after consultation with the chief executive officer of the applicable agency or after consultation with the chief executive officer of the applicable water company for information related to a water company . . . believes the requested record is exempt from disclosure pursuant to subdivision (19) of subsection (b) of this section, the commissioner may direct the agency to withhold such record from such person.

Florida

Florida Statutes, Title 10, Chapter 119.07. Inspection, examination, and duplication of records; exemptions.

(3)(ee) Building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout and structural elements of a building, arena, stadium, water treatment facility, or other structure owned or operated by an agency as defined in s. 119.011 are exempt from the provisions of subsection (1) and s. 24(a), Art. I of the State Constitution. This exemption applies to building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout and structural elements of a building, arena, stadium, water treatment facility, or other structure owned or operated by an agency before, on, or after the effective date of this act. Information made exempt by this paragraph may be disclosed to another governmental entity if disclosure is necessary for the receiving entity to perform its duties and responsibilities; to a licensed architect, engineer, or contractor who is performing work on or related to the building, arena, stadium, water treatment facility, or other structure owned or operated by an agency; or upon a showing of good cause before a court of competent jurisdiction. The entities or persons receiving such information shall maintain the exempt status of the information. This paragraph is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, and shall stand repealed on October 2, 2007, unless reviewed and reenacted by the Legislature.

Georgia

Georgia Code, Title 15.

50-14-3. This chapter [requiring meetings to be open to the general public] shall not apply to the following:

...

(9) Meetings when discussing any records that are exempt from public inspection or disclosure pursuant to paragraph (15) of subsection (a) of Code Section 50-18-72 or when discussing any information a record of which would be exempt from public inspection or disclosure under said paragraph.

50-18-72. (a) Public disclosure shall not be required for records that are:

(1) Specifically required by the federal government to be kept confidential;

...

15 (A) Records, the disclosure of which would compromise security against sabotage or criminal or terrorist acts and the nondisclosure of which is necessary for the protection of life, safety, or public property, which shall be limited to the following:

(i) Security plans and vulnerability assessments for any public utility, building, facility, function, or activity in effect at the time of the request for disclosure or pertaining to a plan or assessment in effect at such time;

(ii) Any plan for protection against terrorist or other attacks, which plan depends for its effectiveness in whole or in part upon a lack of general public knowledge or its details;

(iii) Any document relating to the existence, nature, location, or function of security devices designed to protect against terrorist or other attacks, which devices depend for their effectiveness in whole or in part upon a lack of general public knowledge; and

(iv) Any plan, blueprint, or other material which if made public could compromise security against sabotage, criminal, or terrorist acts.

Iowa

Iowa Code, 22.7. Confidential records.

The following public records shall be kept confidential, unless otherwise ordered by a court, by the lawful custodian of the records, or by another person duly authorized to release such information:

...

45. Records of a public airport, municipal corporation, municipal utility, jointly owned municipal utility, or rural water district organized under chapter 357A, where disclosure could reasonably be expected to jeopardize the security or the public health and safety of the citizens served by a public airport, municipal corporation, municipal utility, jointly owned municipal utility, or rural water district organized under chapter 357A. Such records include but are not limited to vulnerability assessments and information included within such vulnerability assessments; architectural, engineering, or construction diagrams; drawings, plans, or records pertaining to security measures such as security and response plans, security codes and combinations, passwords, passes, keys, or security or response procedures; emergency response protocols; and records disclosing the configuration of critical systems or infrastructures of a public airport, municipal corporation, municipal utility, jointly owned municipal utility, or rural water district organized under chapter 357A. This subsection is repealed effective June 30, 2007.

Indiana

Indiana Code, 5-14-3-4. Records excepted from disclosure requirements; names and addresses; time limitations; destruction of records.

(a) The following public records are excepted from section 3 of this chapter and may not be disclosed by a public agency, unless access to the records is specifically required by a state or federal statute or is ordered by a court under the rules of discovery:

. . .

(19) A record or a part of a record, the public disclosure of which would have a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack. A record described under this subdivision includes:

- (A) a record assembled, prepared, or maintained to prevent, mitigate, or respond to an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2;
- (B) Vulnerability assessments;
- (C) Risk planning documents;
- (D) Needs assessments;
- (E) Threat assessments;
- (F) Domestic preparedness strategies;
- (G) The location of community drinking water wells and surface water intakes;
- (H) The emergency contact information of emergency responders and volunteers;
- (I) Infrastructure records that disclose the configuration of critical systems such as communication, electrical, ventilation, water, and wastewater systems; and
- (J) Detailed drawings or specifications of structural elements, floor plans, and operating, utility, or security systems, whether in paper or electronic form, of any building or facility located on an airport . . . that is owned, occupied, leased, or maintained by a public agency. A record described in this clause may not be released for public inspection without the prior approval of the public agency. The submitting public agency:
 - (i) Is responsible for determining whether the public disclosure of a record or a part of a record has a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack; and
 - (ii) Must identify a record described under item (i) and clearly mark the record as “confidential and not subject to public disclosure under IC 5-14-3-4(19)(I) without approval of (insert name of submitting public agency)”.

This subdivision does not apply to a record or portion of a record pertaining to a location or structure owned or protected by a public agency in the event that an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2 has occurred at that location or structure, unless release of the record or portion of the record would have a reasonable likelihood of threatening public safety by exposing a vulnerability of other locations or structures to terrorist attack.

Louisiana

Louisiana Revised Statutes 44:3.1.

Certain records pertaining to terrorist-related activity:

Nothing in this chapter shall be construed to require disclosure of records containing security procedures, criminal intelligence information pertaining to terrorist-related activity, or threat or vulnerability assessments created, collected, or obtained in the prevention of terrorist-related activity, including but not limited to physical security information, proprietary information, operational plans, and the analysis of such information, or internal security information.

Maine

Revised Statutes Annotated, Title 1, Section 402.

3. Public Records. The term 'public records' means . . . , except:

. . .

(L) Records describing security plans, security procedures or risk assessments prepared specifically for the purpose of preventing or preparing for acts of terrorism, but only to the extent that release of information contained in the record could reasonably be expected to jeopardize the physical safety of government personnel or the public. Information contained in records covered by this paragraph may be disclosed to the Legislature or, in the case of a political or administrative subdivision, to municipal officials or board members under conditions that protect the information from further disclosure. For purposes of this paragraph, "terrorism" means conduct that is designed to cause serious bodily injury or substantial risk of bodily injury to multiple persons, substantial damage to multiple structures whether occupied or unoccupied or substantial physical damage sufficient to disrupt the normal functioning of a critical infrastructure.

Maryland

Annotated Code of Maryland, State Government Article, Section 10-618.

(a) Unless otherwise provided by law, if a custodian believes that inspection of a part of a public record by the applicant would be contrary to the public interest, the custodian may deny inspection by the applicant of that part, as provided in this section.

...

(j)(1) Subject to paragraph (2) of this subsection, a custodian may deny inspection of:

- (i) response procedures or plans prepared to prevent or respond to emergency situations, the disclosure of which would reveal vulnerability assessments, specific tactics, specific emergency procedures, or specific security procedures;
- (ii) 1. building plans, blueprints, schematic drawings, diagrams, operational manuals, or other records of airports and other mass transit facilities, bridges, tunnels, emergency response facilities or structures, buildings where hazardous materials are stored, arenas, stadiums, and waste and water systems, the disclosure of which would reveal the building's or structure's internal layout, specific location, life, safety, and support systems, structural elements, surveillance techniques, alarm or security systems or technologies, operational and transportation plans or protocols, or personnel deployments; or 2. records of any other building or structure owned or operated by the State or any of its political subdivisions, the disclosure of which would reveal the building's or structure's life, safety, and support systems, surveillance techniques, alarm or security systems or technologies, operational and evacuation plans or protocols, or personnel deployments; or
- (iii) records prepared to prevent or respond to emergency situations identifying or describing the name, location, pharmaceutical cache, contents, capacity, equipment, physical features, or capabilities of individual medical facilities, storage facilities, or laboratories established, maintained, or regulated by the State or any of its political subdivisions.

(2) The custodian may deny inspection of a part of a public record under paragraph (1) of this subsection only to the extent that the inspection would:

- (i) jeopardize the security of any structure owned or operated by the State or any of its political subdivisions;
- (ii) facilitate the planning of a terrorist attack; or
- (iii) endanger the life or physical safety of an individual.

Massachusetts

Massachusetts General Law, Chapter 4, Section 7.

Twenty-sixth [clause], “Public records” shall mean all books, papers, maps, photographs, recorded tapes, financial statements, statistical tabulations, or other documentary materials or data, regardless of physical form or characteristics, made or received by any officer or employee of any agency, executive office, department, board, commission, bureau, division or authority of the commonwealth, or of any political subdivision thereof, or of any authority established by the general court to serve a public purpose, unless such materials or data fall within the following exemptions in that they are:

. . .

(n) Records, including, but not limited to, blueprints, plans, policies, procedures and schematic drawings, which relate to internal layout and structural elements, security measures, emergency preparedness, threat or vulnerability assessments, or any other records relating to the security or safety of persons or buildings, structures, facilities, utilities, transportation or other infrastructure located within the commonwealth, the disclosure of which, in the reasonable judgment of the record custodian, subject to review by the supervisor of public records under subsection (b) of section 10 of chapter 66, is likely to jeopardize public safety.

Michigan

Michigan Compiled Law, Section 15.243. Exemptions from disclosure.

Sec. 13. (1) A public body may exempt from disclosure as a public record under this act any of the following:

...

(y) Records or information of measures designed to protect the security or safety of persons or property, whether public or private, including, but not limited to, building, public works, and public water supply designs to the extent that those designs relate to the ongoing security measures of a public body, capabilities and plans for responding to a violation of the Michigan anti-terrorism act, chapter LXXXIII-A of the Michigan penal code, 1931 PA 328, MCL 750.543a to 750.543z, emergency response plans, risk planning documents, threat assessments, and domestic preparedness strategies, unless disclosure would not impair a public body's ability to protect the security or safety of persons or property or unless the public interest in disclosure outweighs the public interest in nondisclosure in the particular instance.

Missouri

Missouri Revised Statutes, Chapter 610.021. Closed meetings and closed records.

Except to the extent disclosure is otherwise required by law, a public governmental body is authorized to close meetings, records and votes, to the extent they relate to the following:

...

- (18) A municipal utility receiving a public records request for information about existing or proposed security systems and structural plans of real property owned or leased by the municipal utility, the public disclosure of which would threaten public safety, shall within three business days act upon such public records request, pursuant to section 610.023. Records related to the procurement of or expenditures relating to security systems shall be open except to the extent provided in this section;
- (19) Existing or proposed security systems and structural plans of real property owned or leased by a public governmental body, the public disclosure of which would threaten public safety. Records related to the procurement of or expenditures relating to security systems shall be open except to the extent provided in this section. When seeking to close information pursuant to this exception, the public governmental body shall affirmatively state in writing that disclosure would impair the public governmental body's ability to protect the security or safety of persons or real property, and shall in the same writing state that the public interest in nondisclosure outweighs the public interest in disclosure of the records. This exception shall sunset on December 31, 2006[.]

New Hampshire

New Hampshire Revised Statutes, Title VI, Chapter 91-A. Access to public records and meetings.

91-A:5 Exemptions. The records of the following bodies are exempted from the provisions of this chapter:

...

VI. Records pertaining to matters relating to the preparation for and the carrying out of all emergency functions, including training to carry out such functions, developed by local or state safety officials that are directly intended to thwart a deliberate act that is intended to result in widespread or severe damage to property or widespread injury or loss of life.

New York

New York Consolidated Laws, Article 6, Section 87. Access to agency records.

2. Each agency shall, in accordance with its published rules, make available for public inspection and copying all records, except that such agency may deny access to records or portions thereof that:

(a) are specifically exempted from disclosure by state or federal statute;

...

(f) if disclosed would endanger the life or safety of any person;

...

(i) if disclosed, would jeopardize an agency's capacity to guarantee the security of its information technology assets, such assets encompassing both electronic information systems and infrastructures[.]

Ohio

Ohio Revised Code, Section 149.433. Exemption of security and infrastructure records.

(A) As used in this section:

(1) “Act of terrorism” has the same meaning as in section 2909.21 of the Revised Code.

(2) “Infrastructure record” means any record that discloses the configuration of a public office’s critical systems including, but not limited to, communication, computer, electrical, mechanical, ventilation, water, and plumbing systems, security codes, or the infrastructure or structural configuration of the building in which a public office is located. “Infrastructure record” does not mean a simple floor plan that discloses only the spatial relationship of components of a public office or the building in which a public office is located.

(3) “Security record” means either of the following:

(a) Any record that contains information directly used for protecting or maintaining the security of a public office against attack, interference, or sabotage;

(b) Any record assembled, prepared, or maintained by a public office or public body to prevent, mitigate, or respond to acts of terrorism, including any of the following:

(i) Those portions of records containing specific and unique vulnerability assessments or specific and unique response plans either of which is intended to prevent or mitigate acts of terrorism, and communication codes or deployment plans of law enforcement or emergency response personnel;

(ii) Specific intelligence information and specific investigative records shared by federal and international law enforcement agencies with state and local law enforcement and public safety agencies;

(iii) National security records classified under federal executive order and not subject to public disclosure under federal law that are shared by federal agencies, and other records related to national security briefings to assist state and local government with domestic preparedness for acts of terrorism.

(B) A record kept by a public office that is a security record or an infrastructure record is not a public record under section 149.43 of the Revised Code and is not subject to mandatory release or disclosure under that section.

(C) Notwithstanding any other section of the Revised Code, a public office’s or a public employee’s disclosure of a security record or infrastructure record that is necessary for construction, renovation, or remodeling work on any public building or project does not constitute public disclosure for purposes of waiving division (B) of this section and does not result in that record becoming a public record for purposes of section 149.43 of the Revised Code.

Oklahoma

Oklahoma Statutes, 51-24A.27.

The following information may be kept confidential:

- A. Investigative evidence of a plan or scheme to commit an act of terrorism;
- B. Assessments of the vulnerability of government facilities or public improvements to an act of terrorism and work papers directly related to preparing the assessment of vulnerability;
- C. Plans for deterrence or prevention of or protection from an act of terrorism;
- D. Plans for response or remediation after an act of terrorism;
- E. Information technology of a public body or public official but only if the information specifically identifies:
 - 1. Design or functional schematics that demonstrate the relationship or connections between devices or systems;
 - 2. System configuration information;
 - 3. Security monitoring and response equipment placement and configuration;
 - 4. Specific location or placement of systems, components or devices;
 - 5. System identification numbers, names, or connecting circuits;
 - 6. Business continuity and disaster planning, or response plans; or
 - 7. Investigative information directly related to security penetrations or denial of services; or
- F. Investigation evidence of an act of terrorism that has already been committed.

Oregon

Oregon Revised Statutes 192.501. Public records conditionally exempt from disclosure.

The following public records are exempt from disclosure under ORS 192.410 to 192.505 unless the public interest requires disclosure in the particular instance:

...

(18) Specific operational plans in connection with an anticipated threat to individual or public safety for deployment and use of personnel and equipment, prepared or used by a public body, if public disclosure of the plans would endanger an individual's life or physical safety or jeopardize a law enforcement activity.

...

(23) Records or information that would reveal or otherwise identify security measures, or weaknesses or potential weaknesses in security measures, taken or recommended to be taken to protect:

- (a) An individual;
- (b) Buildings or other property;
- (c) Information processing, communication or telecommunication systems, including the information contained in the systems[.]

Oregon Revised Statutes 192.502. Other public records exempt from disclosure.

The following public records are exempt from disclosure under ORS 192.410 to 192.505:

...

(32) Information about review or approval of programs relating to the security of:
Generation, storage or conveyance of:

...

- (E) Sewage; or
- (F) Water.

South Carolina

South Carolina Code of Laws, Title 30. Public records.

Section 30-4-20(c): . . . Information relating to security plans and devices proposed, adopted, installed, or utilized by a public body, other than amounts expended for adoption, implementation, or installation of these plans and devices, is required to be closed to the public and is not considered to be made open to the public under the provisions of this act.

Tennessee

Tennessee Code, 10-7-504. Confidential records.

(a)(21)(A) The following records shall be treated as confidential and shall not be open for public inspection:

- (i) Records that would allow a person to identify areas of structural or operational vulnerability of a utility service provider or that would permit unlawful disruption to, or interference with, the services provided by a utility service provider;
- (ii) All contingency plans of a governmental entity prepared to respond to or prevent any violent incident, bomb threat, ongoing act of violence at a school or business, ongoing act of violence at a place of public gathering, threat involving a weapon of mass destruction, or terrorist incident.

Texas

Texas Government Code, Title 4, Subtitle B, Chapter 421. Homeland security.

Sec. 418.177. CONFIDENTIALITY OF CERTAIN INFORMATION RELATING TO RISK OR VULNERABILITY ASSESSMENT. Information is confidential if the information:

- (1) is collected, assembled, or maintained by or for a governmental entity for the purpose of preventing, detecting, or investigating an act of terrorism or related criminal activity; and
- (2) relates to an assessment by or for a governmental entity, or an assessment that is maintained by a governmental entity, of the risk or vulnerability of persons or property, including critical infrastructure, to an act of terrorism or related criminal activity.

Sec. 418.180. CONFIDENTIALITY OF CERTAIN INFORMATION PREPARED FOR UNITED STATES. Information, other than financial information, in the possession of a governmental entity is confidential if the information:

- (1) is part of a report to an agency of the United States;
- (2) relates to an act of terrorism or related criminal activity; and
- (3) is specifically required to be kept confidential:
 - (A) under Section 552.101 because of a federal statute or regulation;
 - (B) to participate in a state-federal information sharing agreement; or
 - (C) to obtain federal funding.

Sec. 418.181. CONFIDENTIALITY OF CERTAIN INFORMATION RELATING TO CRITICAL INFRASTRUCTURE. Those documents or portions of documents in the possession of a governmental entity are confidential if they identify the technical details of particular vulnerabilities of critical infrastructure to an act of terrorism.

Sec. 418.182. CONFIDENTIALITY OF CERTAIN INFORMATION RELATING TO SECURITY SYSTEMS. (a) Except as provided by Subsections (b) and (c), information, including access codes and passwords, in the possession of a governmental entity that relates to the specifications, operating procedures, or location of a security system used to protect public or private property from an act of terrorism or related criminal activity is confidential.

Sec. 418.183. DISCLOSURE OF CERTAIN CONFIDENTIAL INFORMATION.

...

- (b) At any time during a state of disaster, the executive or administrative head of the governmental entity may voluntarily disclose or otherwise make available all or part of the confidential information to another person or another entity if the executive or administrative head believes that the other person or entity has a legitimate need for the information.

Utah

Utah Code 63-2-106. Records of security measures.

The records of a governmental entity or political subdivision regarding security measures designed for the protection of persons or property, public or private, are not subject to this chapter [on public access to government documents]. These records include:

- (1) security plans;
- (2) security codes and combinations, and passwords;
- (3) passes and keys;
- (4) security procedures; and
- (5) building and public works designs, to the extent that the records or information relate to the ongoing security measures of a public entity.

Virginia

Virginia Code 2.2-3705. Exclusions to application of chapter.

(A) The following records are excluded from the provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law:

...

(39) Those portions of engineering and construction drawings and plans submitted for the sole purpose of complying with the Building Code in obtaining a building permit that would identify specific trade secrets or other information the disclosure of which would be harmful to the competitive position of the owner or lessee. However, such information shall be exempt only until the building is completed. Information relating to the safety or environmental soundness of any building shall not be exempt from disclosure.

...

(45) Documentation or other information that describes the design, function, operation or access control features of any security system, whether manual or automated, which is used to control access to or use of any automated data processing or telecommunications system.

...

(57) Plans and information to prevent or respond to terrorist activity, the disclosure of which would jeopardize the safety of any person, including (i) critical infrastructure sector or structural components; (ii) vulnerability assessments, operational, procedural, transportation, and tactical planning or training manuals, and staff meeting minutes or other records; and (iii) engineering or architectural records, or records containing information derived from such records, to the extent such records reveal the location or operation of security equipment and systems, elevators, ventilation, fire protection, emergency, electrical, telecommunications or utility equipment and systems of any public building, structure or information storage facility. The same categories of records of any governmental or non-governmental person or entity submitted to a public body for the purpose of antiterrorism response planning may be withheld from disclosure if such person or entity in writing (a) invokes the protections of this subdivision, (b) identifies with specificity the records or portions thereof for which protection is sought, and (c) states with reasonable particularity why the protection of such records from public disclosure is necessary to meet the objective of antiterrorism planning or protection. Such statement shall be a public record and shall be disclosed upon request. Nothing in this subdivision shall be construed to prohibit the disclosure of records relating to the structural or environmental soundness of any building, nor shall it prevent the disclosure of information relating to any building in connection with an inquiry into the performance of that building after it has been subjected to fire, explosion, natural disaster or other catastrophic event.

Washington

Revised Code of Washington 42.17.310. Certain personal and other records exempt.

(1) The following are exempt from public inspection and copying:

...

(ww) Those portions of records assembled, prepared, or maintained to prevent, mitigate, or respond to criminal terrorist acts, which are acts that significantly disrupt the conduct of government or of the general civilian population of the state or the United States and that manifest an extreme indifference to human life, the public disclosure of which would have a substantial likelihood of threatening public safety, consisting of:

- (i) Specific and unique vulnerability assessments or specific and unique response or deployment plans, including compiled underlying data collected in preparation of or essential to the assessments, or to the response or deployment plans; and
- (ii) Records not subject to public disclosure under federal law that are shared by federal or international agencies, and information prepared from national security briefings provided to state or local government officials related to domestic preparedness for acts of terrorists.

West Virginia

West Virginia Code Chapter 29B-1-4. Exemptions.

(a) The following categories of information are specifically exempt from disclosure under the provisions of this article:

...

(9) Records assembled, prepared or maintained to prevent, mitigate or respond to a terrorist act or the threat of terrorist acts; the public disclosure of which threaten the public safety or the public health;

(10) Those portions of records containing specific or unique vulnerability assessments or specific or unique response plans, data, databases, and inventories of goods or materials collected or assembled to respond to terrorist acts; and communication codes or deployment plans of law enforcement or emergency response personnel;

(11) Specific intelligence information and specific investigative records dealing with terrorist acts or the threat of a terrorist act shared by and between federal and international law-enforcement agencies, state and local law enforcement and other agencies within the department of military affairs and public safety;

(12) National security records classified under federal executive order and not subject to public disclosure under federal law that are shared by federal agencies, and other records related to national security briefings to assist state and local government with domestic preparedness for acts of terrorism;

(13) Computing, telecommunications and network security records, passwords, security codes or programs used to respond to or plan against acts of terrorism which may be the subject of a terrorist act;

(14) Security or disaster recovery plans, risk assessments, tests, or the results of those tests;

(15) Architectural or infrastructure designs, maps or other records that show the location or layout of the facilities where computing, telecommunications or network infrastructure used to plan against or respond to terrorism are located or planned to be located; and

(16) Codes for facility security systems; or codes for secure applications for such facilities referred to in subdivision (15), subsection (a) of this section.



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