



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 24, 2013

Mr. Warren Ernst
Chief of the General Counsel Division
City of Dallas
1500 Marilla Street, Room 7DN
Dallas, Texas 75201

OR2013-08664

Dear Mr. Ernst:

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# 489404.

The City of Dallas (the "city") received a request for "any and all daily operations logs from Dallas Love Field and any and all Dallas Fire Rescue Love Field Fire Stations" for seventeen specified dates. You state the city will allow the requestor to inspect some of the information. You claim some of 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 representative sample of information.¹

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. This section encompasses the common-law right of privacy, which protects information that is (1) highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *See*

¹We assume the "representative sample" of information 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 those records contain substantially different types of information than those submitted to this office.

Indus. Found. v. Tex. Indus. Accident Bd., 540 S.W.2d 668 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be established. *See id.* at 681-82. This office has found some kinds of medical information or information indicating disabilities or specific illnesses are excepted from required public disclosure under common-law privacy. *See* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). You seek to withhold the information you have marked in Exhibit C under common-law privacy. However, upon review, we find the information at issue is either not highly intimate or embarrassing or is of legitimate concern to the public. Consequently, the city may not withhold the information at issue under section 552.101 in conjunction with common-law privacy.

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.

Gov't Code § 552.139(a). Section 2059.055 of the Government Code provides in pertinent part:

(b) Network security information is confidential under this section if the information is:

...

(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)(2)-(3). You state the city's wireless communications system is a computer network and computer system, and integrates computer programs and software. Further, you state the wireless connections are connected and enabled through computers and computerized technology and it is functionally impossible to separate the radio communications function from the computer system function. You inform us the information you have marked in Exhibit B consists of a specialized circuit that is part of the city's wireless communications system that allows the city's fire dispatch to communicate directly with the Federal Aviation Administration tower without risk of interruption or interference. You assert the release of this information would allow a criminal to jam,

interfere, or shut down communications for police, fire, and emergency management. Based on your representations and our review, we find you have demonstrated the information at issue relates to computer network security, or the design, operation, or defense of the city's computer network. Accordingly, the city must withhold the information you have marked in Exhibit B under section 552.139 of the Government Code.² The city 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 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,



Sean Nottingham
Assistant Attorney General
Open Records Division

SN/tch

Ref: ID# 489404

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.