



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 23, 2005

Mr. Andrew A. Chance
Ashcraft Law Firm
3900 Republic Center
325 North St. Paul Street
Dallas, Texas 75201

OR2005-02480

Dear Mr. Chance:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 220546.

North Central Texas College (the "college"), which you represent, received a request for three categories of information related to an interview with a specific individual, and certain Perfect Tracker Tickets. You claim that the submitted information is excepted from disclosure under section 552.139 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially; it appears that some of the information responsive to this request is identical to the information that was the subject of a previous ruling from this office. In Open Records Letter No. 2004-4088 (2004), the college received two similar requests from this same requestor for IP addresses, Microsoft Office License Product Ids, Perfect Tracker Tickets, and computer source files from specific college computers. We concluded that the requested IP addresses, Microsoft Office License Product Ids, and computer source files were not public information subject to the Public Information Act (the "Act"). We further held that the college must withhold portions of the submitted Perfect Tracker Tickets pursuant to section 552.139 of the Government Code. Therefore, assuming that the four criteria for a "previous determination" established by this office in Open Records Decision No. 673 (2001) have been met, we conclude that the college must continue to rely on our decision in Open Records Letter No. 2004-4088 with respect to the information requested in this

instance that was previously ruled upon in that decision.¹ See Gov't Code § 552.301(f); Open Records Decision No. 673 (2001).

We now turn to your arguments for the information you have submitted, and we note that you have only submitted two Perfect Tracker Tickets for our review. To the extent any additional responsive information not previously encompassed by Open Records Letter No. 2004-4088 existed on the date the college received this request, we assume you have released it to the requestor. If you have not released any such information, you must release it at this time. See Gov't Code §§552.301(a), .302; see also Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

You claim that portions of the submitted Perfect Tracker Tickets are excepted from disclosure pursuant to section 552.139 of the Government Code. This section provides:

(a) Information is excepted from the requirements of Section 552.021 if it is information that relates to computer network security 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, or a computer program, network, system, 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 is vulnerable to alteration, damage, or erasure.

Gov't Code § 552.139. You state that the Perfect Tracker Tickets relate to the college's computer network operation and are confidential. You further argue that by disseminating information regarding the problems and inadequacies in the college's computer system, hackers are more likely to attempt to hack into the college's computer system. Based on your

¹ The four criteria for this type of "previous determination" are 1) the records or information at issue are precisely the same records or information that were previously submitted to this office pursuant to section 552.301(e)(1)(D) of the Government Code; 2) the governmental body which received the request for the records or information is the same governmental body that previously requested and received a ruling from the attorney general; 3) the attorney general's prior ruling concluded that the precise records or information are or are not excepted from disclosure under the Act; and 4) the law, facts, and circumstances on which the prior attorney general ruling was based have not changed since the issuance of the ruling. See Open Records Decision No. 673 (2001).

representations and our review of the information, we find that portions of the Perfect Tracker Tickets constitute information relating to computer network security and the design of a computer network for purposes of section 552.139(a). Accordingly, we have marked the information on the Perfect Tracker Tickets that the college must withhold pursuant to section 552.139(a) of the Government Code.

In summary, to the extent that the information at issue here is precisely the same information that we addressed in Open Records Letter No. 2004-4088, we conclude that the college must continue to rely on that letter ruling as a previous determination. The college must withhold the information we have marked on the Perfect Tracker Tickets pursuant to section 552.139 of the Government Code. The remaining information must be released.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Tex. Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Lauren E. Kleine
Assistant Attorney General
Open Records Division

LEK/jev

Ref: ID# 220546

Enc. Submitted documents

c: Mr. Stephen M. Gaylord
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(w/o enclosures)