



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 5, 2007

Mr. Jesús Toscano, Jr.
Administrative Assistant City Attorney
City of Dallas
1500 Marilla Street, Room 7DN
Dallas, Texas 75201

OR2007-06996

Dear Ms. Toscano:

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# 280193.

The City of Dallas (the "city") received a request on March 19, 2007 for videos of police cars running red lights. The city received another request on March 21, 2007 from a second requestor for pictures and information related to police cars running red lights.¹ You state that you have released a portion of the requested information to the second requestor. You claim that certain information contained in the requested videos and photographs is excepted from disclosure under section 552.130 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.² We have also considered comments submitted by the second requestor. *See* Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released).

Section 552.130 provides in relevant part:

(a) Information is excepted from the requirement of Section 552.021 if the information relates to:

¹We note that in correspondence received by our office from the second requestor, he indicates that his original request included videos.

²We assume that the "representative sample" of records 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 that those records contain substantially different types of information than that submitted to this office.

- (1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or]
- (2) a motor vehicle title or registration issued by an agency of this state[.]

Gov't Code § 552.130. The city must withhold the Texas license plate numbers we have marked in the submitted photographs under section 552.130. Pursuant to section 552.130, the city must also withhold those portions of the photographs and videos that you have submitted on compact disk that reveal Texas license plate numbers. You inform us that the city is unable to redact the portions of the responsive videos that reveal Texas license plate numbers. Thus, the videos containing such numbers must be withheld in their entirety under section 552.130 of the Government Code.

We note that the second requestor asserts that the city released the requested videos to the first requestor, while denying this information to the second requestor. The second requestor states that he was denied the videos at issue on March 27, 2007, and that on April 11, 2007, WFAA-TV, with whom the first requestor is employed, broadcast the videos at issue on their 10:00 p.m. newscast. We were able to confirm this assertion by watching the video clips at issue on the WFAA-TV website, dated April 11, 2007. Section 552.007 of the Government Code prohibits selective disclosure of information that a governmental body has voluntarily made available to any member of the public. *See* Gov't Code § 552.007(b). As a general rule, if a governmental body releases information to one member of the public, the Act's exceptions to disclosure are waived unless the information is deemed confidential under the Act. Open Records Decision Nos. 490 (1988), 400 (1983). However, although protection for information covered by the Act's permissive exceptions can be waived, protection for information deemed confidential by law, such as section 552.130, ordinarily is not waived through "selective disclosure." *See* Open Records Decision Nos. 490, 400. Although the city previously released confidential information contained in the videos, the information remains confidential under section 552.130 and must not be released again pursuant to section 552.007.

In conclusion, the city must withhold the Texas license plate numbers we have marked in the submitted photographs pursuant to section 552.130 of the Government Code. The videos containing Texas license plate numbers must be withheld in their entirety pursuant to section 552.130. 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); *Texas 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 Office of the Attorney General 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. 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,



Jordan Johnson
Assistant Attorney General
Open Records Division

JJ/jb

Ref: ID# 280193

Enc. Submitted documents

c: Ms. Rebecca Lopez
WFAA-TV
606 Young Street
Dallas, Texas 75115
(w/o enclosures)

Mr. Bennett Cunningham
Consumer Reporter- CBS 11
10111 North Central Expressway
Dallas, Texas 75231
(w/o enclosures)