



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 5, 2007

Mr. K. Jefferson Bray
City of Plano
P.O. Box 860358
Plano, Texas 75086-0358

OR2007-14469

Dear Mr. Bray:

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# 292335.

The City of Plano (the "city") received a request for an electronic database showing all citations issued by photo enforcement of red light cameras.¹ You state that the city will release a portion of the requested information. You claim that the submitted information is excepted from disclosure under sections 552.101 and 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 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 that the requestor informs us that the "request to the [city] was narrowed to include only specific 'fields' (categorical portions of an electronic record) contained in the electronic citations records (database)." The requestor states that he has specifically

¹You state that the city received clarification regarding this request. *See* Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information).

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.

excluded vehicle identification numbers, license plate numbers, driver's license numbers, and social security numbers from his request. Accordingly, any of this information within the submitted documents is not responsive to the request for information. This ruling does not address the public availability of any information that is not responsive to the request and the city is not required to release that information in response to the request. Thus, the only responsive information contained in the submitted information is the vehicle owner name and the state of registration.³ We address your arguments with regard to the submitted responsive information.

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. Section 552.101 encompasses section 730.004 of the Transportation Code, which provides that "[n]otwithstanding any other provision of law to the contrary, including chapter 552, Government Code, except as provided by Sections 730.005 -730.007, an agency may not disclose personal information about any person obtained by the agency in connection with a motor vehicle record." Transp. Code § 730.004. *See also id.* § 730.003(4) (defining motor vehicle record to include a record that pertains to a motor vehicle operator's or driver's license or permit, motor vehicle registration, motor vehicle title, or identification document issued by an agency of this state). Section 552.101 also encompasses section 730.013,⁴ which provides that for purposes of chapter 730 of the Transportation Code:

(a) An authorized recipient of personal information may not resell or redisclose the personal information in the identical or a substantially identical format the personal information [sic] was disclosed to the recipient by the applicable agency.

(b) An authorized recipient of personal information may resell or redisclose the information only for a use permitted under Section 730.007.

(c) Any authorized recipient who resells or rediscloses personal information obtained from an agency shall be required by that agency to:

(1) maintain for a period of not less than five years records as to any person or entity receiving that information and the permitted use for which it was obtained; and

(2) provide copies of those records to the agency on request.

³The requestor informs us that "[a]t issue still is the release of the vehicle owner name, thus the name of the municipal ordinance violator shown on each citation issued and the state in which the violating vehicle is registered."

⁴The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

(d) A person commits an offense if the person violates this section. An offense under this subsection is a misdemeanor punishable by a fine not to exceed \$25,000.

Transp. Code § 730.013. You state that the city contracts with a third party, Redflex Traffic Solutions, Inc. (“Redflex”), to “install, operate, and provide support for the enforcement of [the city’s] Red Light Camera ordinance.” You explain that Redflex obtains license plate numbers, which are captured by red light cameras, of vehicles that proceed through intersections against the light. You state that Redflex then uses the license plate numbers to obtain additional motor vehicle record information from the Texas Department of Transportation (“TXDOT”) or the equivalent agency in another state. We note that TXDOT is an agency under section 730.003(1) that obtains or compiles motor vehicle records. We further note that the names of the owners of Texas registered vehicles obtained by Redflex from TXDOT are considered personal information under section 730.003(6). *See id.* §730.003(6) (personal information means information that identifies a person, including an individual’s photograph or computerized image, social security number, driver identification number, name, address, but not the zip code, telephone number, and medical or disability information). Accordingly, we find that, by obtaining motor vehicle information from TXDOT to assist the city in carrying out its functions, Redflex is an authorized recipient of personal information for purposes of section 730.013. *See id.* § 730.007(a)(2)(A)(ii) (authorized recipient includes a private entity acting on behalf of a government agency in carrying out the agency’s functions).

Based upon your representations and our review of the information at issue, we conclude that, because the names of owners of Texas registered vehicles were obtained from TXDOT by an authorized recipient, and because this information is in the identical or substantially identical format that it was received by Redflex from TXDOT,⁵ the names of owners of Texas registered vehicles are confidential under section 730.013(a) of the Transportation Code. Accordingly, as we have no indication that release of this information would be for a use permitted under section 730.007, we conclude that these owners’ names must be withheld under section 552.101 of the Government Code.⁶ However, we note that section 730.013 makes confidential only the names of individuals whose vehicles are registered in Texas. The remaining responsive information, consisting of the state of registration, whether in Texas or other states, and the names of the owners of vehicles registered in states other than Texas, does not consist of personal information for the purposes of section 730.003(6). Therefore, this information may not be withheld under section 552.101 in conjunction with section 730.013(a).

⁵You inform us that the submitted information is a sample dataset “showing the data fields Redflex either captures or obtains.”

⁶As our ruling is dispositive, we need not address your remaining arguments against the disclosure of this information.

You also argue that information identifying a vehicle as being registered in Texas is confidential under section 730.004 of the Transportation Code.⁷ However, section 730.004 only makes confidential “personal information” as defined by section 730.003(6). Accordingly, as we have determined that information identifying a vehicle as being registered in Texas does not consist of personal information, we conclude that this information is not confidential under section 730.004 and may not be withheld under section 552.101 on that basis.

However, we note that section 552.101 also encompasses federal law, including section 2721 of title 18 of the United States Code,⁸ which prohibits the release and use of certain personal information from state motor vehicle records. Section 2721 provides in pertinent part:

(a) In general.—A State department of motor vehicles, and any officer, employee, or contractor thereof, shall not knowingly disclose or otherwise make available to any person or entity:

(1) personal information, as defined in 18 U.S.C. 2725(3), about any individual obtained by the department in connection with a motor vehicle record, except as provided in subsection (b) of this section; or

(2) highly restricted personal information, as defined in 18 U.S.C. 2725(4), about any individual obtained by the department in connection with a motor vehicle record, without the express consent of the person to whom such information applies, except uses permitted in subsections (b)(1), (b)(4), (b)(6), and (b)(9)[.]

...

(c) Resale or redisclosure.—An authorized recipient of personal information (except a recipient under subsection (b)(11) or (12)) may resell or redisclose the information only for a use permitted under subsection (b) (but not for uses under subsection (b)(11) or (12)). . . . Any authorized recipient (except a recipient under subsection (b)(11)) that resells or rediscloses personal information covered by this chapter must keep for a period of 5 years records identifying each person or entity that receives information and the permitted

⁷You argue that the “driver’s license state of issuance” is confidential under section 730.004 as well under section 552.130 of the Government Code. However, the representative sample of information you submitted to this office only contains the state of registration of particular vehicles, rather than the state of issuance of a driver’s license.

⁸The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

purpose for which the information will be used and must make such records available to the motor vehicle department upon request.

See 18 U.S.C. § 2721(a), (c). We note that the remaining names, consisting of the names of the owners of vehicles registered in states other than Texas, are considered personal information for purposes of section 2725(3). *See id.* § 2725(3) (personal information means information that identifies a person, including an individual's photograph, social security number, driver identification number, name, address, but not the 5-digit zip code, telephone number, and medical or disability information). As previously noted, you state that Redflex uses the license plate numbers obtained from the red light cameras to procure additional motor vehicle record information from either TXDOT or the equivalent agency in another state. Based on this representation, we conclude that, by obtaining motor vehicle information from other state agencies to assist the city in carrying out its functions, Redflex is an authorized recipient of personal information for purposes of section 2721(c). *See id.* § 2721(b)(1) (providing that personal information may be disclosed by a state department of motor vehicles to any entity acting on behalf of a Federal, State, or local agency in carrying out its functions). Therefore, because the remaining names were obtained from a state department of motor vehicles by an authorized recipient, these names are confidential under federal law. As we have no indication that release of this information would be for a use permitted under section 2721(b), we conclude the remaining names must be withheld under section 552.101 of the Government Code in conjunction with section 2721(c) of title 18 of the United States Code. We note, however, that the state of registration itself is not confidential under federal law. Accordingly, we will address your remaining arguments against the disclosure of this information.

You assert that the remaining information is protected by common-law privacy. Section 552.101 also encompasses the common-law right of privacy, which protects information if it (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). The types of information considered intimate and embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683. Upon review, we determine that the state of registration is not the type of information protected by common-law privacy and it may not be withheld under section 552.101 on that basis.

Finally, we also understand you to argue that the submitted information identifying a vehicle as being registered in Texas is excepted from disclosure under section 552.130 of the Government Code. Section 552.130 excepts from disclosure information that is related to a motor vehicle operator's or driver's license or permit or a motor vehicle title or registration issued by an agency of this state. *See* Gov't Code § 552.130(a)(1)-(2). We conclude that section 552.130 does not apply to the submitted information identifying a vehicle as being registered in Texas.

In summary, in connection with section 552.101 of the Government Code, the city must withhold (1) the names of owners of vehicles registered in Texas under section 730.013 of the Transportation Code and (2) the names of owners of vehicles registered in other states under section 2721 of title 18 of the United States Code. The remaining responsive information, consisting of the state of registration of the vehicle, must be released to the requestor.

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,

A handwritten signature in cursive script that reads "Jordan Johnson".

Jordan Johnson
Assistant Attorney General
Open Records Division

JJ/jb

Ref: ID# 292335

Enc. Submitted documents

c: Mr. Joe Ellis
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Dallas, Texas 75202
(w/o enclosures)