



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

February 19, 2010

Mr. Todd E. Fitts
City Attorney
City of Marshall
110 West Fannin Street
Marshall, Texas 75670

OR2010-02527

Dear Mr. Fitts:

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# 371306.

The Marshall Police Department (the "department"), which you represent, received a request for reports, witness information, and traffic light sequence video pertaining to a specified accident. You state you have released most of the requested information to the requestor. We understand you to claim the submitted video recording is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted 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. We understand you to contend the submitted information is confidential under section 552.101 in conjunction with section 707.006 of the Transportation Code, which provides as follows:

- (a) A local authority shall operate a photographic traffic control signal enforcement system only for the purpose of detecting a violation or suspected violation of a traffic-control signal.

(b) A person commits an offense if the person uses a photographic traffic signal enforcement system to produce a recorded image other than in the manner and for the purpose specified by this chapter.

(c) An offense under this section is a Class A misdemeanor.

Transp. Code § 707.006. We note that section 707.006 does not expressly make information confidential. In order for section 552.101 to apply, a statute must contain language expressly making certain information confidential; confidentiality cannot be implied from the structure of a statute or rule. *See* Open Records Decision Nos. 658 at 4 (1998), 478 at 2 (1987), 465 at 4-5 (1987). Accordingly, the department may not withhold the submitted video recording pursuant to section 552.101 of the Government Code in conjunction with section 707.006 of the Transportation Code. As you raise no further exceptions to disclosure, the submitted information must be released to the requestor.

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,



Amy L.S. Shipp
Assistant Attorney General
Open Records Division

ALS/rl

Ref: ID# 371306

Enc. Submitted documents

cc: Requestor
(w/o enclosures)