



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 11, 2010

Mr. Michael J. Sandlin
Assistant District Attorney
Dallas County Criminal District Attorney's Office
133 North Riverfront Boulevard, LB-19
Dallas, Texas 75207-4399

OR2010-08552

Dear Mr. Sandlin:

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# 382336.

The Dallas County District Attorney (the "district attorney") received a request for the dash camera video recording of a specified event. You claim that the submitted information is excepted from disclosure under sections 552.101, 552.103, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information. We have also received and considered comments from the requestor. *See Gov't Code § 552.304* (interested party may submit comments stating why information should or should not be released).

Initially, we note that the submitted video recordings were shown in open court and therefore constitute information that was filed with a court. Section 552.022(a)(17) of the Government Code provides for required public disclosure of "information that is also contained in a public court record," unless the information is expressly confidential under other law. Gov't Code § 552.022(a)(17). Although you seek to withhold the submitted information under sections 552.103 and 552.108 of the Government Code, these sections are discretionary exceptions within the Act and not "other law" that makes information confidential. *See Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469,475-76 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive section 552.103); *see also* Open Records Decision Nos. 177 (1977) (governmental body may waive statutory predecessor to section 552.108); 665 at 2 n. 5 (2000) (discretionary exceptions generally). Therefore, the

district attorney may not withhold the submitted video recordings under section 552.103 or section 552.108. However, sections 552.101 and 552.130 of the Government Code are other law for the purpose of section 552.022 of the Government Code. Therefore, we will address your arguments under these sections.

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 also encompasses chapter 730 of the Transportation Code. You raise section 730.004, which provides that:

Notwithstanding any other provisions 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. Section 730.003 provides that, for purposes of chapter 730:

(1) "Agency" includes any agency or political subdivision of this state, or an authorized agent or contractor of an agency of this state, that compiles or maintains motor vehicle records.

...

(4) "Motor vehicle record" means 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 or a local agency authorized to issue an identification document. The term does not include:

(A) a record that pertains to a motor carrier; or

(B) an accident report prepared under Chapter 550 or 601.

Id. § 730.003(1), (4). Section 730.004 applies only to an "agency" that compiles or maintains motor vehicle records. *See id.* § 730.003(1). You have not established that the district attorney compiles or maintains motor vehicle records; therefore, section 730.004 does not apply to the district attorney. Accordingly, the district attorney may not withhold any part of the requested information under section 552.101 of the Government Code in conjunction with section 730.004 of the Transportation Code. *See Open Records Decision No. 478 at 2 (1987) (language of confidentiality statute controls scope of protection).*

Section 552.130 of the Government Code excepts from disclosure "information [that] relates to . . . a motor vehicle operator's or driver's license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state[.]" Gov't Code § 552.130. Upon review of the information at issue, we determine that the district attorney must withhold the license plate number we have indicated in the submitted recordings under section 552.130 of the Government Code. The remaining information must be released. We note that if the district attorney lacks the technical capability to redact the information we have indicated in the video recordings, the district attorney must withhold the recordings that contain the license plate number we have indicated in their entirety. *See* Open Records Decision No. 364 (1983).

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,



Kate Hartfield
Assistant Attorney General
Open Records Division

KH/dls

Ref: ID# 382336

Enc. Submitted documents

c: Requestor
(w/o enclosures)