



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

May 18, 2011

Ms. S. McClellan
Assistant City Attorney
Criminal Law and Police Division
City of Dallas
1400 South Lamar
Dallas, Texas 75215

OR2011-06984

Dear Ms. McClellan:

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# 418061 (DPD No. 2011-1853).

The Dallas Police Department (the "department") received a request for the following information: (1) all documentation regarding notification of collection activity sent to any credit bureau concerning a specified red-light camera citation; (2) a list of all unpaid red-light citations, including the alleged violator's name and address, whether reported to a credit bureau or not reported; and (3) an explanation of city policy from the city's attorney regarding the reporting of unpaid red-light camera fines to a credit bureau. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.¹

Initially, we note the department has submitted information responsive only to the second portion of the request. To the extent information related to the remainder of the request exists, we presume the department has released it. If not, the department must do so at this time. *See* Gov't Code §§ 552.301, .302; *see also* Open Records Decision No. 664 (2000) (if

¹We assume 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 those records contain substantially different types of information than those submitted to this office.

governmental body concludes that no exceptions apply to the requested information, it must release the information as soon as possible).

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, “[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 of the Transportation Code, which provides 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 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.

(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.

Id. § 730.013. You state the City of Dallas (“city”) contracts with a third party, Affiliated Computer Services (“ACS”), to install, operate, and provide support for the city’s red-light cameras. ACS uses these cameras to obtain the license plate numbers of vehicles that proceed through intersections against a red light. You state that ACS then uses the license plate numbers of Texas registered vehicles to obtain additional motor vehicle record information from the Texas Department of Transportation (“TxDOT”). We note TxDOT is

an agency under section 730.003(1) that obtains or compiles motor vehicle records. We further note the names and addresses of the owners of Texas registered vehicles obtained by ACS 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, and address, but not zip code, telephone number, or medical or disability information). Accordingly, we find that, by obtaining motor vehicle information from TxDOT to assist the city in carrying out its functions, ACS 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 personal information of owners of Texas registered vehicles was obtained from TxDOT by an authorized recipient, and because this information is in the identical or substantially identical format that it was received by ACS from TxDOT, the personal information, other than zip codes, of owners of Texas registered vehicles is 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 the department must withhold the personal information, other than zip codes, of owners of Texas registered vehicles under section 552.101 of the Government Code in conjunction with section 730.013 of the Transportation Code.

To the extent the remaining responsive information relates to individuals whose vehicles are registered in states other than Texas, we consider your argument under section 2721 of title 18 of the United States Code, which is also encompassed by section 552.101 of the Government Code. 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 purpose for which the information will be used and must make such records available to the motor vehicle department upon request.

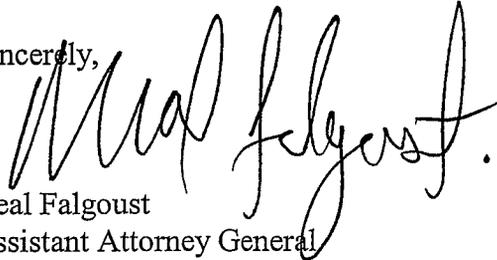
18 U.S.C. § 2721(a), (c). Some of the remaining responsive information, consisting of the names and addresses of owners of vehicles registered in states other than Texas, is considered personal information for purposes of section 2725(3). *See id.* § 2725(3) (personal information means information that 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). You state ACS uses the license plate numbers obtained from the red light cameras to procure additional motor vehicle record information from other states' TxDOT equivalent. We conclude that ACS, in obtaining motor vehicle information from other state agencies to assist the department in carrying out its functions, 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, to the extent the remaining responsive information was obtained from a state department of motor vehicles by an authorized recipient, any such information is confidential under federal law. As we have no indication release of this information would be for a use permitted under section 2721(b), we conclude, to the extent the information was obtained from a state department of motor vehicles by an authorized recipient, the department must withhold the names and addresses, other than zip codes, of owners of vehicles registered in states other than Texas under section 552.101 of the Government Code in conjunction with section 2721(c) of title 18 of the United States Code.

In summary, the department must withhold the personal information, other than zip codes, of owners of Texas registered vehicles under section 552.101 of the Government Code in conjunction with section 730.013 of the Transportation Code. The department must withhold the personal information, other than zip codes, of owners of vehicles registered in states other than Texas under section 552.101 of the Government Code in conjunction with section 2721 of title 18 of the United States Code, to the extent such information was obtained from a state department of motor vehicles by an authorized recipient. As you raise no further arguments against disclosure of the remaining responsive information, it must be released.

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,

A handwritten signature in black ink, appearing to read "Neal Falgoust". The signature is written in a cursive style with a large, prominent "N" and "F".

Neal Falgoust
Assistant Attorney General
Open Records Division

NF/dls

Ref: ID# 418061

Enc. Submitted documents

c: Requestor
(w/o enclosures)