



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 26, 2011

Ms. S. McClellan
Assistant City Attorney
City of Dallas
1400 South Lamar
Dallas, Texas 75215

OR2011-12374

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# 428159 (DPD Request Number 2011-4815).

The Dallas Police Department (the "department") received a request for "all data pursuit reports and/or any other reports completed as a result of police vehicle pursuits" during a specified time period. You claim portions of the requested information are excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information protected by other statutes. You argue that a portion of the submitted information is confidential under section 730.013 of the Transportation Code, which provides that for purposes of chapter 730 of the Transportation Code:

¹We assume the "representative sample" of information 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.

(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.

Transp. Code § 730.013. You argue that the information you have marked is personal information made confidential under section 730.013(a). *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). We understand the department is an authorized recipient of personal information contained in motor vehicle records maintained by the Texas Department of Transportation ("TxDOT"). *See id.* §§ 730.007(a)(2)(A)(i) (authorized recipient includes a law enforcement agency), .003(4)(defining motor vehicle record). You also indicate that the department received the marked personal information from TxDOT, an agency under section 730.003 that obtains or compiles motor vehicle records. Furthermore, you assert that the marked personal information is in a substantially identical format to the format in which it was received by the department from TxDOT. On this basis, we conclude that the department must withhold the information you have marked under section 552.101 in conjunction with section 730.013(a) of the Transportation Code.

Section 552.101 of the Government Code 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 Ms. S. McClellan 668, 685 (Tex. 1976). The types of information considered intimate or embarrassing by the Texas Supreme Court in *Industrial Foundation* include 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. You claim a portion of the remaining information is protected by common-law privacy. Upon review, however, we find the information you have marked pertains to an individual who is not identified in the submitted information. Therefore, we find this information does not implicate any individual's privacy interest. Accordingly, the department may not withhold the information you have marked under section 552.101 of the Government Code in conjunction with common-law privacy.

You have redacted a Texas license plate number and year in the remaining information under section 552.130 of the Government Code, presumably pursuant to Open Records Decision No. 684 (2009). This decision acts as a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including a Texas license plate number under section 552.130, without the necessity of requesting an attorney general decision. *See* Open Records Decision No. 684 (2009). This decision, however, does not authorize governmental bodies to withhold a Texas license plate year under section 552.130 of the Government Code without the necessity of requesting an attorney general decision. In this instance, you have redacted a Texas license plate year. Because Open Records Decision No. 684 does not authorize the withholding of a Texas license plate year, this redacted information may not be withheld under section 552.130 pursuant to Open Records Decision No. 684.

Section 552.130 provides information relating to a motor vehicle title or registration issued by an agency of this state, or another state or country; is excepted from public release. Act of May 24, 2011, 82nd Leg., R.S., S.B. 1638, § 4 (to be codified as an amendment to Gov't Code § 552.130(a)(2)). The department must withhold the license plate numbers, license plate years, and vehicle identification number you have marked under section 552.130 of the Government Code.

In summary, the department must withhold the information you have marked under section 552.101 of the Government Code in conjunction with section 730.013(a) of the Transportation Code. The department must withhold the license plate numbers, license plate years, and vehicle identification number you have marked under section 552.130 of the Government Code. The remaining information at issue 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,

A handwritten signature in black ink that reads "Sean Nottingham". The signature is written in a cursive style with a large initial 'S'.

Sean Nottingham
Assistant Attorney General
Open Records Division

SN/agn

Ref: ID# 428159

Enc. Submitted documents

c: Requestor
(w/o enclosures)