



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 7, 2016

Ms. Ylise Janssen
General Counsel
Office of the General Counsel
Austin Independent School District
1111 West Sixth Street
Austin, Texas 78703

OR2016-12940

Dear Ms. Janssen:

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# 613192.

The Austin Independent School District (the "district") received a request for information relating to all automated camera citations starting from a specified date. You claim the submitted information is 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

Initially, we note the requestor seeks information created at a certain date, as well as information held for an unspecified period of time afterwards, which could extend after the date of the request. It is implicit in several provisions of the Act that the Act applies only to information already in existence. *See* Gov't Code §§ 552.002, .021, .227, .351. The Act does not require a governmental body to prepare new information in response to a request. *See* Attorney General Opinion H-90 (1973); *see also* Open Records Decision Nos. 572 at 1 (1990), 555 at 1-2 (1990), 452 at 2-3 (1986), 87 (1975). Consequently, a governmental body

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 that submitted to this office.

is not required to comply with a standing request to supply information prepared in the future. *See* Attorney General Opinion JM-48 at 2 (1983); *see also* Open Records Decision Nos. 476 at 1 (1987), 465 at 1 (1987). Thus, the only information encompassed by the present request consists of information the district maintained or had a right of access to as of the date it received the request.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *See* Gov't Code § 552.130(a). The district must withhold the motor vehicle record information, a representative sample of which we have marked, under section 552.130 of the Government Code.²

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 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). For the purposes of chapter 730 of the Transportation Code, section 730.013 provides, in part:

(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.

Id. § 730.013(a)-(b). You state the district contracts with a third party, American Traffic Solutions ("ATS"), to conduct the bus stop arm program. We understand ATS uses bus stop arm cameras to obtain the license plate numbers of vehicles that proceed through the stop arm. We understand ATS uses the license plate numbers to obtain a name and address for the license plate number from the Texas Department of Public Safety ("DPS"). We note DPS is an agency under section 730.003(1) that obtains or compiles motor vehicle records. *See id.* § 730.003(1). We further note the names and addresses of the owners of registered

²As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

vehicles obtained by ATS from DPS 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, by obtaining information from DPS to assist the district's police department in carrying out its functions, ATS 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, the personal information, including the names and addresses, other than zip codes, is confidential under section 730.013(a) of the Transportation Code. Accordingly, as we have no indication release of this information would be for a use permitted under section 730.007, we conclude the district must withhold the personal information, a representative sample of which we have marked, under section 552.101 of the Government Code in conjunction with sections 730.004 and 730.013 of the Transportation Code.³ However, we find none of the remaining information is confidential under section 730.004 of the Transportation Code and the district may not withhold it from release under section 552.101 of the Government Code on that ground.

Section 552.101 of the Government Code also encompasses section 2721 of title 18 of the United States Code, which 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)[.]

18 U.S.C. § 2721(a). We note the remaining information consists of zip codes, which does not consist of personal information for purposes of section 2725(3). *See id.* § 2725(3)

³As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

(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). Accordingly, we find the remaining zip codes are not confidential under section 2721(a) of title 18 of the United States Code and may not be withheld under section 552.101 of the Government Code on that basis.

In summary, the district must withhold the motor vehicle record information, a representative sample of which we have marked, under section 552.130 of the Government Code. The district must withhold the personal information, a representative sample of which we have marked, under section 552.101 of the Government Code in conjunction with sections 730.004 and 730.013 of the Transportation Code. The remaining information 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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Kavid Singh
Assistant Attorney General
Open Records Division

KVS/som

Ref: ID# 613192

Enc. Submitted documents

c: Requestor
(w/o enclosures)