



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 14, 2019

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

OR2019-04295

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# 750361.

The Austin Independent School District (the "district") received a request for information pertaining to a specified incident. The district claims some of the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the claimed exceptions and reviewed the submitted representative sample of information.¹

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. Because section 552.130 protects personal privacy, the requestor has a right of access to his own motor vehicle record information pursuant to section 552.023 of the Government Code. *See id.* § 552.023(a) ("person's authorized representative has special right of access, beyond right of general

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.

public, to information held by governmental body that relates to person and that is protected from public disclosure by laws intended to protect that person's privacy interests"); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself). However, the district must withhold the visible license plate that does not pertain to the requestor, as well as the motor vehicle record information we have marked, under section 552.130 of the Government Code.

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 information protected by other statutes, including the federal Driver's Privacy Protection Act of 1994 (the "DPPA"), section 2721 of title 18 of the United States Code. Section 2721 provides, in part, as follows:

(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[.]

...

(b) Permissible uses.—Personal information referred to in subsection (a) . . . may be disclosed as follows:

(1) For use by any government agency . . . in carrying out its functions[.]

...

(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)(1), (b)(1), (c). The DPPA defines "motor vehicle record" as "any record that pertains to a motor vehicle operator's permit . . . issued by a department of motor

vehicles[.]” *Id.* § 2725(1). Section 2725 also defines personal information as “information that identifies an individual, 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, but does not include information on vehicular accidents, driving violations, and driver’s status.” *See id.* § 2725(3).

The district states it contracts with 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 also understand ATS uses the license plate numbers to obtain names and addresses for the license plate numbers from the Texas Department of Public Safety (“DPS”). This office has concluded the DPPA applies to information in the possession of DPS. Attorney General Opinion JC-0499 at 1 (2002). We conclude ATS, in obtaining personal information from DPS to assist the district in carrying out its functions, is an authorized recipient of personal information for purposes of section 2721(c). *See id.* § 2721(b)(1) (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).

Upon review, we find some of the information at issue, which we have marked, is personal information obtained from DPS by an authorized recipient. However, an authorized recipient of personal information for purposes of section 2721(c) may only resell or redisclose the information for a use permitted under subsection (b), but not for uses under subsection (b)(11) or (b)(12). *See id.* § 2721 (c). In addition, section 2721(b)(13) provides for the permissible release of personal information subject to the DPPA if the requestor demonstrates it has obtained the written consent of the individual to whom the information pertains. *See id.* § 2721(b)(13). Some of the information at issue pertains to the requestor. Therefore, the district has the discretion to release the requestor’s information pursuant to subsections 2721(c) and (b)(13) of title 18 of the United States Code. *See id.* § 2721 (b)(13), (c). We have no indication that release of the information at issue would be for a use permitted under section 2721(b). Consequently, the district must withhold generally the information we have marked under section 552.101 of the Government Code in conjunction with section 2721(a) of title 18 of the United States Code. *See id.* § 2721(a)(1). However, the district has failed to demonstrate any of the remaining information consists of personal information for purposes of section 2725(3). *See id.* 2725(3). Accordingly, the district may not withhold any of the remaining information under section 552.101 of the Government Code on that basis.

Section 552.101 of the Government Code also encompasses section 730.004 of the Transportation Code, which provides “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. “Personal information” means “information that identifies a person,” and includes a person’s photograph, social security number, driver identification number, name, and address, but does not include a zip code, telephone number, or medical and disability

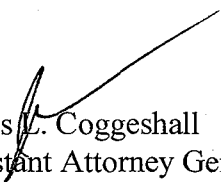
information. *Id.* § 730.003(6). An authorized recipient of personal information may not re-disclose the personal information and to do so is a misdemeanor offense. *Id.* § 730.013(a), (d). Upon review, we find the remaining information does not consist of personal information for purposes of section 730.003(6). Thus, the remaining information is not confidential under section 730.004 or 730.013, and the district may not withhold it under section 552.101 on either of those grounds.

In summary, the district must withhold the visible license plate that does not pertain to the requestor and the information we have marked under section 552.130 of the Government Code. The district must also withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 2721(a) of title 18 of the United States Code; however, the district has the discretion to release the requestor's information pursuant to subsections 2721(c) and (b)(13) of title 18 of the United States Code. The district must release the remaining information.

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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/som

Ref: ID# 750361

Enc. Submitted documents

c: Requestor
(w/o enclosures)