

May 25, 2011

Honorable Greg Abbott  
Attorney General  
Open Records Division  
PO Box 12548  
Austin, TX 78711-2548

**Re: Duncanville, TX request for TAG decision on Aren Cambre's open records request on red light camera data**

Attorney General Abbott:

On May 9, 2011, Alexis G. Allen, attorney for the City of Duncanville, mailed you a letter (exhibit A) asking for an Attorney General decision on my open records request (exhibit B). I am submitting this comment as the open records requestor.

Please note that much of what Ms. Allen mentions has already been addressed in letter ruling OR2011-05433. I provided her a copy of that letter ruling on April 28.

Beyond that, Ms. Allen alleges that state law prohibits releasing license plate numbers to me. An informed reading of the law finds no such prohibition.

Texas Government Code §552.130 normally prohibits release of certain data relating to motor vehicle records. This excepted data includes personal information on motorists and details on "motor vehicle title or registration". §552.130(b) goes on to say that the excepted data "may be released only if, and in the manner, authorized by Chapter 730, Transportation Code."

Texas Transportation Code, §730.003 defines certain *personal* data that is not normally releasable. However, §730.007 permits it to be released to me:

(a) Personal information obtained by an agency in connection with a motor vehicle record may be disclosed to any requestor by an agency if the requestor ... (2) represents that the use of the personal information will be strictly limited to: ... (E) use in research or in producing statistical reports, but only if the personal information is not published, redisclosed, or used to contact any individual;

(I am requesting this data to help with statistical research as part of my doctoral praxis. I will comply with the terms set forth—the personal information will not be "published, redisclosed, or used to contact any individual").

The problem is that Chapter 730, Transportation Code, only addresses personal information. It does not address motor vehicle title or registration data, which includes license plate numbers.

A simplistic, but incorrect, syllogistic reading of the law is:

1. Statute X restricts information type A and B from release unless its release is authorized by statute Y.
2. Statute Y regulates information type A but does not regulate information type B.
3. Therefore, information type B is not releasable.

Here's the problem: both Chapter 730, Transportation Code and §552.130, Government Code, were enacted in SB 1069 of the 75<sup>th</sup> Legislature (1997) and signed by Governor Bush. As revealed in the bill's analysis (exhibit C), the bill's purpose was to comply with federal requirements to implement personal information safeguards as defined in the federal Drivers Privacy Protection Act (18 U.S.C., Chapter 123 § 2721)<sup>1</sup> (exhibit D). Like Chapter 730, Transportation Code, the Drivers Privacy Protection Act only addresses personal information defined in 18 U.S.C. 2725 (3) (exhibit E). It does not prohibit release of vehicle title or registration data that doesn't include personal information.

The obvious intent of SB 1069, in creating §552.130, Government Code, was to make a clear reference within Chapter 552 to restrictions in Chapter 730, Transportation Code. It is almost certain that the bill, and specifically §552.130, Government Code, was not intended to create a legal trap to absolutely prohibit disclosure of motor vehicle data unrelated to personal information, including license plate numbers.

Even without this context, one may interpret §552.130, Government Code, to say that the prohibited data could be released in the *manner* prescribed by Chapter 730, Transportation Code, since it does not specifically prohibit its release.

There is ambiguity in the literal wording of the law, and there is a good case that the law was not intended to block disclosure of any data I am requesting, at least for my statistical analysis purposes. Given this, and given the mandate that Chapter 552, Government Code, "shall be liberally construed in favor of granting a request for information" (§552.001(b), Government Code), it follows that all the data I have requested is disclosable to me.

Please don't hesitate to contact me with questions.

Thank you,

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<sup>1</sup> Exhibit C (the Senate bill analysis) has a typo: it references 18 U.S.C., Chapter 132 instead of Chapter 123. This was corrected in the later House analysis.