

March 2, 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

Attorney General Abbott:

On February 8, Alexis G. Allen, attorney representing the City of Duncanville, mailed you a letter (exhibit A) asking for an Attorney General decision on an open records request (exhibit B).

Additionally, on February 16, John M. Jacobs, Associate General Counsel of Redflex Traffic Systems, Inc., mailed you a separate letter (exhibit C) concerning the same open records request.

I am submitting this comment as the open records requestor.

A summary of my request (exhibit B) is I requested broad information, in electronic form, on each red light violation recorded by the city's red light enforcement program.

With this letter, I am making eight points:

Point 1: Ms. Allen misconstrued two statutes

In exhibit A, Ms. Allen states, "the City asserts that the license plate numbers of vehicles captured by the red light cameras must be withheld." To justify this, Ms. Allen invented nonexistent statutory restrictions.

Ms. Allen cites Texas Government Code §552.130. While this statute normally prohibits disclosure of "motor vehicle title or registration", it expressly permits it in certain cases in subsection (b): "Information described by Subsection (a) may be released only if, and in the manner, authorized by Chapter 730, Transportation Code."

Chapter 730, Transportation Code, addresses certain personal information connected to motor vehicle registration, defined in §730.003(6), and generally says it is not releasable. However, if the red light violation data contains personal information, it is releasable to me under §730.007, Transportation Code, which states that this normally non-releasable information "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 a doctorate student at Southern Methodist University, and use of any confidential data will be in full compliance with this law and strictly be used for “research or in producing statistical reports”. Any sensitive data will be permanently deleted once research activities have concluded.

Also, Chapter 730, Transportation Code, does not restrict disclosure of license plate numbers; again, it only applies to disclosure of the personal data. Therefore, if §552.130, Government Code, does in fact restrict license plate *numbers*, in referencing Chapter 730, Transportation Code, it only makes sense that §552.130, Government Code, merely prescribes a formula for release of license plate data as contained in §730.007, Transportation Code.

The confluence of §552.130, Government Code; Chapter 730, Transportation Code; and my status as a researcher who will comply with §730.007, Transportation Code, means the license plate numbers and personal data associated with the vehicle registration records, all of which should be present in the red light camera data, is releasable to me.

Point 2: Ms. Allen alleges that civil agreements can trump open records laws

In exhibit, RedFlex alleges that its civil agreement with the National Law Enforcement Telecommunications System (NLETS) trumps open records law.

Not only is this absurd, it is a dangerous precedent. Such reasoning would allow jurisdictions to freely override open records laws with civil agreements.

Further, applicable federal law governing release of this data is in Drivers Privacy Protection Act (18 U.S.C. § 2721). Texas’s Chapter 730, Transportation Code, is in fact an implementation of this act. While it also normally prohibits disclosure, subsection (b)(5) permits disclosure in an almost identical way to the Texas law: it allows disclosure “[f]or use in research activities, and for use in producing statistical reports, so long as the personal information is not published, redisclosed, or used to contact individuals.”

Even further, the appearance is this NLETS civil agreement is designed to uphold that very federal law. It would be absurd that a civil agreement that upholds a federal law blocks disclosure explicitly permitted by that very law.

Point 3: The request does not include proprietary information or data where disclosure would cause competitive harm

In exhibit C, page 4, Redflex alleges that I am asking for information protected under §552.110, Government Code, which protects the responding party from “substantial competitive harm”.

I have neither requested nor desire such data. Rather, I am merely requesting data that represents the facts that Duncanville’s traffic enforcement systems observe.

These facts are virtually identical to what a law enforcement officer would record when issuing a citation or what a judicial system would manage while adjudicating a violation. (Note carefully that I am

not alleging these are judicial records. Red light violations recorded by red light camera systems are administrative, civil matters, like parking tickets; copies of the facts contained in a violation might also become judicial records if appealed to municipal court.) The main difference is that some details are more precise. For example, an officer might simply note that a motorist ran a red light, whereas an automated system will record that a vehicle entered the intersection 1.3 seconds after the red light turned on.

Further, Redflex misconstrues §552.110 as a proxy to allow them to aid jurisdictions in denying lawful open records requests because of Redflex's civil agreement. The federal and state statutes in fact permit the requested disclosure.

Therefore, Redflex's contention that releasing the data would cause competitive harm is baseless.

Point 4: Duncanville and Redflex misconstrued my request

Exhibit A states, "the responsive information includes fifteen categories of information." Additionally, in exhibit C, Redflex states "the Requesting Party requires that the above information be compiled in one report..."

In fact, my request was for "an electronic dump of all data concerning automated red light camera violations". It is not limited to 15 categories.

As stated in my open records request (exhibit B), the 15 categories of information were actually given as example fields in a database dump provided by another city in response to my request: "I have previously requested red light camera data from Dallas, and this is what they gave me for each violation". They were not a directive to Duncanville or Redflex to limit the responsive data or produce exactly that data.

Point 5: Redflex further misconstrues my request

Further misconstruing my request, in exhibit C, Redflex states "the Requesting Party requires ... [the responsive data] emailed to him electronically in a single file." Again, nowhere do I make this demand. In fact, I give three options:

1. Email.
2. A secure, online, web-based dropbox provided by Southern Methodist University: "I now have a secure SMU electronic dropbox. You can submit files to it at https://locker.smu.edu/xythoswfs/webui/_xy-925500_1-t_I5AQZjdh. Click on the upload button on the right hand side to submit the data."
3. Other options as could be reasonably inferred from "Feel free to email or call if you have any other questions."

Point 6: Redflex erroneously alleges I am asking for a custom report

Redflex alleges I am requesting a report of their data. In fact, nowhere do I request a custom report. In my request, I say I am open to receiving straight, raw copies of database tables. This is normally a simple process for information technology employees.

It is Redflex, not me, who is alleging the need to do extra work to comply with their theories on data confidentiality. I am contesting Redflex's and Duncanville's logic behind those theories in this letter.

Point 7: Redflex erroneously alleges I am asking for data they do not collect

Redflex states that their system "capture[s] information regarding red light violations" and does not capture "the duration of time that a vehicle traveled through an intersection during the yellow or amber phase of a traffic light." (Page 2 of exhibit C)

Nowhere do I make such a request. One of the 15 example fields provided by Dallas is "Yellow (amber) seconds between the green and red lights" that occurred before the violator ran the *red light*.

My request is, again, simply of a dump of the data they do collect. As stated above, the 15 example fields are only examples of what Dallas provided; they are neither restrictions on the data to be provided, nor are they a definition of a minimum acceptable dataset.

Point 8: Redflex erroneously alleges I am asking them to query NLETS on my behalf

In exhibit C, page 3, Redflex cites a provision of their civil agreement with NLETS that states that "motor vehicle registration data" may only be retained as long as is "necessary to support due process or court events." My request is not for Redflex to requery NLETS for data Redflex may have already deleted. It is only for data that currently exists.

I appreciate your consideration of this letter. Please do not hesitate to contact me with any questions.

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