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CITY OF GRAND PRAIRIE, TEXAS

February 9, 2011

The Attorney General of Texas
P.O. Box 12548
Austin, TX 78711-2548

Re: Open Records/Public Information request

Dear Sir or Madam:

Within 10 business days, which has been disrupted by the weather, the City Secretary of the City of Grand Prairie received two requests from someone purporting to be a graduate student, requesting a data dump (later amended to include descriptions of certain data) of information from the “red light cameras” used by The City of Grand Prairie. There was an original request which was then clarified by a subsequent request, which indicated what type of information the requestor had received from another city, which, upon information and belief, doesn’t have the same red light camera vendor.

The City of Grand Prairie has a major east to west railroad line running the length of the City, between Main and Jefferson Streets in the downtown area of the City. Over the years, there have been a number of fatalities involving cars or pedestrians hit by trains, and there have been several crossings closed or modified.

Partly in conjunction with increased safety efforts at railroad intersections, the City of Grand Prairie contracted with a private company named Redflex. Under the terms of the contract, Redflex and the City determine the location of cameras, which are owned, programmed, and operated by Redflex. The locations are generally intersections with a high number of accidents, or at railroad crossings.

Redflex installs the cameras and operates them. The cameras are designed to detect automobiles that “run” a red light or cross railroad tracks after the stop lights have been activated. Redflex reviews the events captured by the cameras, and screens them for instances in which there was no violation. Grand Prairie Police personnel, with access to a Redflex website, then review the instances, and confirm if there was a violation. Redflex then uses its resources to determine the violator, and sends notification and collects payments. There is a limited appeal process that could lead to an appeal to the municipal court. The City never has access or control of the information requested by the requestor.

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When the City received the request, the request was forwarded to Redflex for response. Redflex responded with a letter, included herein, that the information is not available as requested, either through their contract with another agency which allows them access to information only made available to law enforcement personnel, because some of the matters requested are matters that have been ruled to be private (such as license plate information), because it is proprietary information that they developed and which they want to protect, and because they can't provide the redacted information without having to design a program and incur expenses for information that is not compiled or collected in a manner that the requestor is requiring. They estimated a cost of \$700.00 to provide that information.

We would humbly request an opinion from the Attorney General's Office as to whether or not we must provide the information requested. **We are relying upon the letter from Redflex, enclosed herein, and the fact that the information requested is not information available to the City or on any of the data bases of the City.** If the information has to be manipulated so that it can be provided by Redflex without compromising their data or their other contracts, then we request that the Attorney General determine if the requested charges are reasonable, and if the requestor must pay such costs in order to receive the data requested.

For your assistance, we have retrieved the original request(s) from a stream of emails that began with his request, and the response from Reflex, which was sent to our Police Records Supervisor.

Because the weather has disrupted this process, we have not been able to determine if there is an alternative method that would satisfy the requestor, or if he is willing to pay the requested costs to Redflex. An inquiry will be made of that issue, and if there is a resolution, we will certainly inform your office.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen R. Alcorn for". The signature is written in a cursive style with a large, looping initial "S".

Stephen R. Alcorn
Assistant City Attorney

cc: Aren Cambre, requestor



MAKING A SAFER WORLD.

Response to Public Records Request

Date: January 31, 2011

To: Grand Prairie Texas Police Department for Aren Cambre

From: Robert G. Salcido, Director of Operations,
Corporate Custodian of Records
Redflex Traffic Systems, Inc.

Re: Public Records Request for Aren Cambre

We are in receipt of your Request for Records; in response, we submit the following:

The information we have in our system is obtained through NLETS and any and all information is confidential and protected. In order to comply with the terms and conditions of the above referenced Agreement and in order to properly identify automotive drivers, Redflex requires access to certain motor vehicle ownership or automotive driver registration records and data. Access to such information is obtained as a result a contractual relationship with the National Law Enforcement Telecommunication System, Inc. The agreement between Redflex and NLETS (hereinafter the "NLETS Agreement") contains provisions that limit and restrict Redflex's use of NLETS applications and data to only those actions that are expressly permitted in writing in the NLETS Agreement. As a result of the limitations and restrictions contained in the provisions of the NLETS Agreement, could not comply with the Requests at this time because of its contractual obligations with the National Law Enforcement Telecommunication System, Inc.

As a result of the foregoing, it is Redflex's position that it currently does not possess the complete authority to disclose or release the materials relevant to the Requests because it has not been expressly authorized to do so pursuant to the above referenced NLETS Agreement. It is most likely the case that the disclosure or release of information relative to said request would contain direct or indirect references to motor vehicle ownership or automotive driver registration records and data of the type and nature that is not currently permitted at this time under the NLETS Agreement with the National Law Enforcement Telecommunications System, Inc. Redflex's failure to adhere in full with the terms and conditions of the NLETS Agreement could be considered unauthorized use of NLETS applications and data to such a degree and extent that Redflex might be deemed to be in material breach of contract.

2. The Requested Information Should be Excepted From Disclosure Pursuant to Section 552.110 of the Texas Public Information Act Because of the Commercial And Financial Information That Would Cause Substantial Competitive Harm to Redflex If Released to the Public.

Section 552.110 of the Texas Public Information Act states, in pertinent part, "Commercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained is excepted from the requirements of Section 552.021." The disclosure or release of



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information relevant to the Requests would most likely contain either direct or indirect references to motor vehicle ownership or automotive driver registration records and data of the nature and type that has not been expressly authorized by the National Law Enforcement Telecommunications System, Inc.

Disclosure and release of motor vehicle ownership or automotive driver registration records and data by Redflex without the express written consent of NLETS could be deemed an action that potentially violates the express terms and conditions of the above referenced NLETS Agreement. As a result, if Redflex were required to disclose such records and data, it could be deemed to be in material breach of the NLETS Agreement because it could be engaging in activities that have not been expressly permitted by NLETS at this time. A material breach of the NLETS Agreement may, potentially, cause substantial competitive harm to Redflex with respect to its ability to continue to provide services to the City, or other customers, because of its need to have accurate and timely electronic access to automotive records for traffic violation enforcement purposes.

Accordingly, the express language of the NLETS Agreement at this time does not appear to permit Redflex to release and disclose to the Requesting Party all of the motor vehicle ownership or automotive driver registration records and data relevant to the Requests identified as "An electronic dump of all data concerning individual automated red light cameral violations". The release or disclosure of such automotive registration information in a manner or method that potentially effectuates a material breach of the NLETS Agreement by Redflex may cause financial harm to Redflex because it could limit the ability of Redflex to continue to provide timely and accurate automatic traffic safety photo enforcement services to its customers.

In addition the request for a data dump would require programming and development to provide the requested data. The requested data within a report as requested does not exist and/or in the format requested; nor is this information in the control and custody of the jurisdiction; this request will require programming and development of a program to run this data; FOIA and PRA requirements do not require that a non-existing; non-standard report or data file be created to comply with a request. Building a query to remove all personal identifying information would entail extensive programming and development and would need to be paid by any third party prior to initiating any effort to comply.

CHAPTER 730. MOTOR VEHICLE RECORDS DISCLOSURE ACT

◆ 730.001. Short Title

This chapter may be cited as the Motor Vehicle Records Disclosure Act.

Added by Acts 1997, 75th Leg., ch. 1187, ◆ 1, eff. Sept. 1, 1997.

◆ 730.004. Prohibition on Disclosure and Use of Personal Information From Motor Vehicle Records



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Notwithstanding any other provision of law to the contrary, including Chapter 552, Government Code, except as provided by Sections 730.005 and 730.008, an agency may not disclose personal information about any person obtained by the agency in connection with a motor vehicle record.

Conclusion.

The Requesting Party seeks information that Redflex has not been expressly authorized to disclose or release at this time pursuant to the terms and conditions of the MVD/NLETS Agreement and its related provisions. Disclosure of any of the foregoing by Redflex could effectuate a breach of state statutes and NLETS Agreement which may, in turn, limit Redflex's electronic access to NLETS motor vehicle ownership or automotive driver registration records and data which are necessary in order for Redflex to provide accurate and timely automatic traffic safety photo enforcement services to its customers. As a result of the potential for substantial competitive harm to Redflex, the information related to the Request is properly excepted from disclosure and release under the laws of the State of Texas. In addition; as requested, for RTSI to provide a report **with all personal identifiable data redacted** would require special programming; we estimate 4 minimum hours billable at \$175.00 per hour payable in advance; total sum of \$700.00 payable to Redflex Traffic Systems, Inc.

I appreciate the opportunity to be of service and hope the requested information is found useful to you.

Thank you,

A handwritten signature in black ink, appearing to read "Robert G. Salcido".

Robert G. Salcido

Director of Operations
Corporate Custodian of Records
Redflex Traffic Systems, Inc.
23751 N. 23rd Avenue, Suite 150
Phoenix, AZ 85085-1854

