

# TEXAS DEPARTMENT OF PUBLIC SAFETY

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### OPINION COMMITTEE

May 18, 2009

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The Honorable Greg Abbott  
Attorney General of Texas  
Opinion Committee  
209 West 14<sup>th</sup> Street, 6<sup>th</sup> Floor  
Austin, Texas 78701

FILE # ML-46066-09

I.D. # 46066

**RQ-0799-GA**

RE: Request for Attorney General Opinion

Dear General Abbott:

Pursuant to Section 402.042 of the Texas Government Code, I am requesting an opinion as to whether Dallas County's intended redisclosure of driver license photographs on its Dallas County Wanted Website would violate the Motor Vehicle Records Disclosure Act, Chapter 730 of the Texas Transportation Code, or the Driver Privacy Protection Act (DPPA), 18 U.S.C. § 2721 *et seq.*

#### Overview

The purpose of the Dallas County Wanted Website is to reduce the number of outstanding citations in Dallas County. In order to enhance the effectiveness of this public website, Dallas County wants the Texas Department of Public Safety (Department) to provide driver license photographs to Dallas County so that it can post these photographs with the citation information on the website.

Dallas County believes that it is eligible to receive driver license photographs under TEX. TRANS. CODE § 730.007(c)(1)(a), which provides that the Department may disclose an individual's photographic image to "a law enforcement agency or a criminal justice agency for an official purpose." Once it has received the driver license photographs, Dallas County has indicated that it believes that it has discretion to disclose this information in any manner, including a public website.

The Department strives to assist and support fellow law enforcement and criminal justice agencies and is not opposed to providing driver license photographs to Dallas County for this purpose. However, the Department is concerned that Chapter 730 of the Texas Transportation Code and the DPPA provide three potential problems that may prohibit Dallas County's intended use and requests the Attorney General provide an opinion regarding these three issues.

### 1. Identical or Substantially Identical Format

TEX. TRANS. CODE § 730.013(a) states that “[a]n 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.” The language of this statute could be interpreted to mean that displaying any driver license photograph would be considered redisclosing personal information in an “identical or substantially identical format.” If the Department provides driver license photographs to Dallas County, and Dallas County rediscloses these photographs by posting them on a public website, would this violate TEX. TRANS. CODE § 730.013?

### 2. Internet Redisclosure by Recipient

TEX. TRANS. CODE § 730.013(b) states that “[a]n authorized recipient of personal information may resell or redisclose the information only for a use permitted under Section 730.007.”<sup>1</sup> Furthermore, TEX. TRANS. CODE § 730.013(c) states that “[a]ny authorized recipient who resells or rediscloses personal information obtained from an agency” must “maintain for a period of not less than five years records as to any person or entity receiving that information and the permitted use for which it was obtained.” Similar language can be found in Title 18 U.S.C. § 2721(c) which states “[a]n authorized recipient of personal information... may resell or redisclose the information only for a use permitted under subsection (b).”<sup>2</sup> Title 18 U.S.C. § 2721(c) also requires an authorized recipient to maintain a record of “the permitted use for which [personal information] was obtained.” These provisions appear to limit redisclosure of a driver license photograph to a person who is permitted to obtain the information under TEX. TRANS. CODE § 730.007 and Title 18 U.S.C. § 2721.

Dallas County advises that it is working on a system to collect and maintain information pertaining to the identity of an individual who views driver license photographs on this website. Despite this proposed collection of information, it appears that the above language limits redisclosure of protected personal information based on the recipient’s permitted use. Therefore, any individual who views a driver license photograph on Dallas County’s website must be able to cite a permitted use under Chapter 730 of the Transportation Code and the DPPA. Does a permissible use exist under these statutes for displaying this protected information in an open public forum such as this website?

### 3. Another Potential Redisclosure Issue

The Department is concerned that displaying protected driver license photographs over this website could create a situation where an individual viewing the photographs could capture the protected information from the website and then further redisclose the information without complying with Chapter 730 of the Transportation Code and the DPPA. The Department believes

<sup>1</sup> § 730.007 lists several permissible uses that a requestor may use to obtain personal information found in a motor vehicle record.

<sup>2</sup> 18 U.S.C. § 2721(b) lists several permissible uses that a requestor may use to obtain personal information found in a motor vehicle record.

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that, if Dallas County is an authorized recipient of this protected information, it must take steps to prevent the potential unauthorized redisclosure of protected information in its control. Would Dallas County be responsible if a driver license photograph posted on its website was captured and redisclosed outside the statutory framework of Chapter 730 of the Transportation Code and the DPPA?

Thank you for your consideration of this request. Should you require any additional information, please contact Judy Brown, Chief, Driver License Division, at (512) 424-5232.

Sincerely,



Lamar Beckworth

Director

cc: Mike Cantrell, Commissioner, District 2, Dallas County  
Bob Schell, Chief, Civil Division, Dallas County District Attorney's Office