



November 15, 2000

Ms. Pamela Smith
Assistant General Counsel
Texas Department of Public Safety
5805 North Lamar Blvd Box 4087
Austin, Texas 78773-0001

OR2000-4415

Dear Ms. Smith:

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# 141313.

The Texas Department of Public Safety (the "department") received a request for "the documents/driver's licenses with photographs" concerning two named individuals. You have submitted for our review the information that is responsive to the request. You claim that the requested information is excepted from disclosure under section 552.101 of the Act in conjunction with chapter 730 of the Transportation Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Act excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Section 552.130 of the Act provides in relevant part as follows:

(a) Information is excepted from [required public disclosure] if the information relates to:

(1) a motor vehicle operator's or driver's license or permit issued by an agency of this state[.]

...

(b) Information described by Subsection (a) may be released only if, and in the manner, authorized by Chapter 730, Transportation Code.

The information submitted pertains to motor vehicle operator's or driver's licenses issued by an agency of this state. Therefore, under section 552.130, the department may release the requested information only if the release of such information is authorized by chapter 730 of the Transportation Code.

Section 730.004 of the Transportation Code provides:

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

Section 730.003 provides that, for purposes of chapter 730 of the Transportation Code:

(1) "Agency" includes any agency of this state, or an authorized agent or contractor of an agency of this state, that compiles or maintains motor vehicle records.

...

(4) "Motor vehicle record" means a record that pertains to a motor vehicle operator's or driver's license or permit, motor vehicle registration, motor vehicle title, or identification document issued by an agency of this state or a local agency authorized to issue an identification document. The term does not include a record that pertains to a motor carrier.

...

(6) "Personal information" means information that identifies a person, including an individual's photograph or computerized image, social security number, driver identification number, name, address, but not zip code, telephone number, and medical or disability information. The term does not include information on vehicle accidents, driving or equipment-related violations, or driver's license or registration status.

Transp. Code § 730.003(1), (4), (6).

We find that the information at issue constitutes "personal information" in connection with a "motor vehicle record" held by the department which is an "agency." Therefore, the information falls under section 730.004. Consequently, as prescribed by section 552.130, release of the requested information is controlled by chapter 730 of the Transportation Code. You explain that the requestor "has not established that she meets any of the criteria" for

demonstrating that any of the exceptions to confidentiality afforded by chapter 730 apply in this instance. *See* Transp. Code §§ 730.005 - 730.008. We therefore conclude that the department must withhold the requested information in accordance with section 552.130 of the Government Code and chapter 730 of the Transportation Code.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

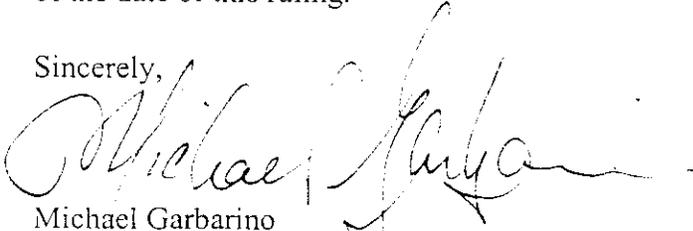
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Michael Garbarino
Assistant Attorney General
Open Records Division

MG/seg

Ref: ID# 141313

Encl. Submitted documents

cc: Ms. Elizabeth Higginbotham
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(w/o enclosures)