



September 16, 2002

Ms. Pamela Smith  
Assistant General Counsel  
Texas Department of Public Safety  
P.O. Box 4087  
Austin, Texas 78773-0001

OR2002-5176

Dear Ms. Smith:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 168585.

The Texas Department of Public Safety (the "department") received a request for the following information:

- The database containing all Texas driver records. . . .
- A list of the 25 holders of commercial driver's licenses, with a P endorsement, who have the most violations on their driving record, along with the details for the violations by each driver.

You state that the department will make available the requested driver license database in accordance with the release provisions of section 521.050 of the Transportation Code. You assert that the department is not required to provide the requestor the remainder of the requested information pursuant to section 521.051 of the Transportation Code, which provides that the department "may not disclose class-type listings from the basic driver's license file to any person" except in certain situations as set out in section 521.049(c) of the Transportation Code. Section 521.049(c) provides that the department may make class-type listings available "to an official of the United States, the state, or a political subdivision of this state for governmental purposes only." You do not indicate, nor does it appear to this office, that section 521.049(c) is applicable here.

In Open Records Decision No. 618 (1993), this office determined that the purpose of the predecessor statute to section 521.051 "appears to be to relieve the department of the administrative burden of compiling a list based primarily on location and existence of traffic convictions, *i.e.*, a class type list, when the requestor does not have the individuals driver's

license numbers or names.”<sup>1</sup> *Id.* at 3. We agreed that the provision limits access when the requestor seeks license listings by specific type, such as “a list of licensees who have traffic convictions on file, or a list of those who might be subject to administrative hearings to suspend their license.” *Id.*

You provided representative samples of the type of information at issue, which you contend is a class-type listing that the department may not provide the requestor.<sup>2</sup> We have reviewed the information at issue and your arguments, and agree that the department may not provide the remaining requested information, though we note that the requestor may be able to locate this information through public court records.<sup>3</sup> *See* Open Records Decision No. 618 at 4 (1993).

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

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<sup>1</sup>We noted in that decision that while the provision restricts access to class listings, it does not make the information confidential by law under section 552.101 of the Government Code. Open Records Decision No. 618 at 3 (1993), N. 3.

<sup>2</sup>We assume that the “representative sample” of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

<sup>3</sup>We note also that section 411.135 of the Government Code provides public access to certain information that is a court record and that relates to a criminal conviction or deferred adjudication of a felony offense.

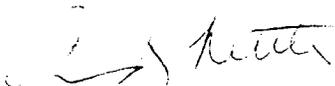
records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these 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 Hadassah Schloss at the Texas Building and Procurement 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. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. 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,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/sdk

Ref: ID# 168585

Enc. Submitted documents

c: Mr. Jeff Claassen  
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(w/o enclosures)