



OFFICE *of the* ATTORNEY GENERAL
GREG ABBOTT

July 3, 2003

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

OR2003-4594

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# 183763.

The Texas Department of Public Safety (the "department") received a request for "Official copy of any and all driver's records, any possible traffic citations or warrants, and computerized files such as the Texas Criminal Information Computer" concerning the requestor. (Emphasis omitted.) You state that you will provide the requestor with instructions on how to obtain a copy of his criminal history. *See Gov't Code § 411.083(b)(3)* (individual can obtain his or her own criminal history record information from department). You contend, however, that "the logs of who accesses the NCIC/TCIC systems, the purpose [for which] the information was accessed, and what information was accessed are records maintained for departmental use and the disclosure of those records would interfere with law enforcement."

In this instance, the request does not ask for any information regarding who has accessed the requestor's criminal history information or why the information was accessed. Instead, it seeks only the criminal history and driving records themselves regardless of whether they are maintained in the "Texas Criminal Information Computer" or elsewhere. Because the requestor has not asked for any information regarding who has accessed his records or why, we lack the authority to render a decision regarding such information in this instance and do not address your arguments. *See generally Gov't Code § 552.301* (indicating that this office has authority to render decisions only with respect to information sought by written request).

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).

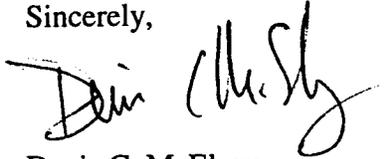
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

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,

A handwritten signature in black ink, appearing to read "Denis C. McElroy". The signature is written in a cursive style with a large, sweeping initial "D".

Denis C. McElroy
Assistant Attorney General
Open Records Division

DCM/sdk

Ref: ID# 183763

Enc. Submitted documents

c: Mr. Kevin Long
c/o Theresa Long
1515 Wickersham, #1114DB
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(w/o enclosures)