



OFFICE *of the* ATTORNEY GENERAL
GREG ABBOTT

July 15, 2003

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

OR2003-4894

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# 184407.

The Texas Department of Public Safety (the "Department") received a request for "the name, address, telephone number and age of all of the Texas driver's license holders in Williamson County between the age [sic] of 65 and 70." The Department asserts the requested information is excepted from disclosure under section 552.130 of the Government Code. In addition, the Department contends it cannot lawfully disclose the requested information pursuant to section 521.051 of the Transportation Code. We reviewed the representative sample of information you submitted and considered your arguments.¹

Section 521.051 of the Transportation Code states the Department "may not disclose class-type listings from the basic driver's license file to any person" except in certain situations as described 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

¹ 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.

only." You do not indicate, nor does it appear to this office, that section 521.049(c) applies in this instance.

In Open Records Decision No. 618 (1993), this office determined the purpose of the statutory predecessor to section 521.051 "appears to be to relieve the [D]epartment 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 individual driver's license numbers or names."² Open Records Decision No. 618 at 3. We agreed 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 contend the requested information constitutes a class-type listing, and therefore, the Department may not comply with the request. Based on your arguments and our review of the representative sample of information you submitted, we agree the Department may not provide the requested information to the requestor. *Id.* at 4 (1993). As we are able to make this determination, we need not address your claim under section 552.130 of the Government 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

² In Open Records Decision No. 618 (1993), we noted that while the statute restricts access to class listings, it does not make the information confidential by law under section 552.101 of the Government Code. *See* Open Records Decision No. 618 at 3 n.3.

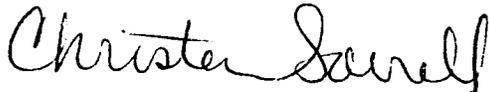
will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure 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,



Christen Sorrell
Assistant Attorney General
Open Records Division

CHS/seg

Ref: ID# 184407

Enc: Submitted documents

c: Ms. Cynthia Graham
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(w/o enclosures)