



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 20, 2012

Mr. Brian Riemenschneider
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR2012-05686

Dear Mr. Riemenschneider:

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# 449944 (PIR# 11-3106).

The Texas Department of Public Safety (the “department”) received a request for information regarding all “Class C misdemeanor infractions between January 1, 2006 and December 6, 2011” from five specified courthouses. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹ We have also received and considered comments from the requestor’s attorney. *See* Gov’t Code § 552.304 (providing that any person may submit comments stating why information should or should not be released).

Initially, we address the requestor’s contention that the department failed to comply with the procedural requirements of the Act. Section 552.301 of the Government Code describes the procedural obligations placed on a governmental body that receives a written request for information that it wishes to withhold. Pursuant to section 552.301(b), the governmental body must ask for the attorney general’s decision and state the exceptions that apply within ten business days after receiving the request. *See id.* § 552.301(b). Section 552.301(e) requires the governmental body to submit to the attorney general, not later than the fifteenth business day after the date of its receipt of the request, (1) written comments stating why the

¹We 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.

governmental body's claimed exceptions apply to the information that it seeks to withhold; (2) a copy of the written request for information; (3) a signed statement of the date on which the governmental body received the request or evidence sufficient to establish that date; and (4) the specific information the governmental body seeks to withhold or representative samples if the information is voluminous. *See id.* § 552.301(e)(1)(A)-(D).

You state the department received the request for information on December 6, 2011. You inform us the department provided the requestor with an estimate of charges and a request for a deposit for payment of these charges on December 20, 2011. *See Gov't Code* §§ 552.2615, .263(a). You further state the department received a deposit for payment of the anticipated costs on January 20, 2012. Thus, January 20, 2012 is the date on which the department is deemed to have received the request. *See id.* § 552.263(e) (if governmental body requires deposit or bond for anticipated costs pursuant to section 552.263, request for information is considered to have been received on date that the governmental body receives deposit or bond). Accordingly, the ten-business-day deadline for requesting a ruling from this office was February 3, 2012, and the fifteen-business-day deadline was February 10, 2012. You requested a ruling from this office on February 1, 2012 and submitted the information required by section 552.301(e) on February 3, 2012. Therefore, we find the department complied with the procedural requirements of section 552.301 of the Government Code in requesting this decision.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses information protected by other statutes. Section 521.051 of the Transportation Code provides the department "may not disclose class-type listings from the basic driver's license record file to any person except as provided by Section 521.049(c)[.]" Transp. Code § 521.051. 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 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 individual driver's license numbers or names." ORD 618 at 3. Therefore, we held the statutory predecessor to section 521.051 "limits access when the [request] requires the department to classify licensees by specific types, such as a request for 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." ORD 618 at 3-4.

We note the requestor's attorney asserts that "the Requestor is requesting the content of the raw data at the moment it is received by [the department] from the identified courts, not after [the department] has 'upload[ed] the information into its driver license database for application to the individual record.'" You state, however, that "[i]n the case of the courts listed on this request, this information is transmitted electronically by the court. The department's computer system receives this information automatically upon transmission and uploads the information into its driver license database for application to the individual record." You thus assert that the information at issue consists of a "motor vehicle related

conviction information record, which is statutorily required for the issuance of a driver license, [and] meets the very broad definition of motor vehicle record located in Tex. Transp. Code 730.003(4) once it has been transmitted by the court to the [d]epartment in whatever manner.” You further state “because this conviction information is a motor vehicle record as indicated above and because it is information that is part of the driver license database once it is received by the [d]epartment, it is information that is part of the ‘basic driver’s license record file.’” Thus, you assert that “[w]hen a person makes a request for personal and conviction information based on the convicting court of the license holder, the request should be considered a request for a class-type listing[,]” and that “release of this information is governed by” section 521.051 of the Transportation Code.

Having considered your arguments and reviewed the submitted information, we agree that section 521.051 is applicable to the information at issue. Under section 521.049(c), however, 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, that section 521.049 is applicable in this instance. Therefore, based on your representations and our review, we conclude the department must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 521.051 of the Transportation Code.²

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

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,



Sean Opperman
Assistant Attorney General
Open Records Division

SO/dls

²As our ruling is dispositive, we need not address your remaining arguments against disclosure of the submitted information.

Ref: ID# 449944

Enc. Submitted documents

c: Requestor
(w/o enclosures)