



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 4, 1997

Mr. Ron Pigott
Assistant General Counsel
Texas Department of Public Safety
5805 N. Lamar Blvd., Box 4087
Austin, Texas 78773-0001

OR97-2642

Dear Mr. Pigott:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 110567.

The Texas Department of Public Safety (the "department") received a request for the names and addresses of those who have been charged with the offense of Driving While Intoxicated ("DWI"), as well as the report form containing information relevant to an arrest for DWI required to be submitted to the department by an arresting officer under Transportation Code § 524.011. The requestor does not seek this information for a specific individual, but seeks it for every individual arrested for DWI, to be provided on a "frequent and continuous basis." You assert that the information is excepted from disclosure pursuant to section 552.101 of the Government Code. We have considered your arguments and have reviewed the information submitted.¹

Initially, we note the requestor's "preference . . . to receive the name and address of each person arrested for DWI on a frequent and continuous basis via computer E-mail rather than photocopy paper product." A governmental body is not required to comply with a standing request to provide information "on a periodic basis," Open Records Decision No. 465 (1987), or on a weekly basis, Open Records Decision No. 476 (1987), or to prepare information in a form or on a schedule dictated by the requesting party. Attorney General Opinion No. JM-672 (1987); Open Records Decision Nos. 483 (1987), 145 (1976).

¹We assume that the "representative samples" 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.

Section 552.101 exempts from required public disclosure information considered to be confidential by law, either constitutional, statutory, or by judicial decision. 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), regardless of whether the requestor is eligible to receive the information under Chapter 730.

Section 521.049(c) provides for release of driver's license information to governmental entities for governmental purposes only.

You inform this office that "[t]hrough the Administrative License Revocation Program, the department collects information concerning arrests which is entered on the driver record and is maintained as a part of the basic driver's license record file." You thus assert that the requested information, which consists of information related only to individuals arrested for DWI, is not "front-page offense report information,"² but a class-type listing which the department is prohibited from releasing pursuant to section 521.051 of the Transportation Code. We agree. Therefore, the department must withhold the requested information pursuant to section 552.101 in conjunction with section 521.051 of the Transportation Code. See Open Records Decision No. 618 (1993) (request to department for list of individuals, including name, address, age, sex and race, who were ticketed for traffic violations in specific cities, requires department to create "a class-type listing from the basic driver's license record file," disclosure of which is precluded by predecessor to section 521.051 of Transportation Code); Open Records Decision No. 498 (1988) (predecessor to section 521.051 of Transportation Code prohibits department from providing class-type listings from basic driver's license record file to any person or business, overturning holding in Open Records Decision No. 465 (1987) that department is required to identify driver's license files that contain certain type of document in order to make documents available to person who requests them under Open Records Act).

We note that the requested information may be available through local law enforcement agencies under the Open Records Act. See, e.g., *Houston Chronicle*; Open Records Decision Nos. 243 (1980), 127 (1976). However, a local law enforcement agency is not necessarily required to compile a list of people arrested for DWI if the requestor is given access to the records from which such information would be extracted. See Open Records Decision No. 618 (1993) at 4, Open Records Decision No. 243 (1980) (police department need not create list of persons arrested under specific statute if access given to police blotter).

²Information normally found on the front page of an offense report is generally considered public. See generally Gov't Code § 552.108(c); *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), writ ref'd n.r.e. per curiam, 536 S.W.2d 559 (Tex. 1976) ("*Houston Chronicle*"); Open Records Decision No. 127 (1976).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Michael A. Pearle
Assistant Attorney General
Open Records Division

MAP/ch

Ref.: ID# 110567

Enclosures: Submitted documents

cc: Mr. Glen R. Peterson
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(w/o enclosures)