OFFICE OF THE ATTORNEY GENERAL · STATE OF TEXAS
JOHN CORNYN

April 4, 2001

Ms. Pamela Smith
Assistant General Counsel
Texas Department of Public Safety
5805 N. Lamar Blvd., Box 4087
Austin, Texas 78773-0001

OR2001-1341

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# 145808.

The Texas Department of Public Safety (the "department") received a request for the database registry of concealed handgun licenses. You claim that the requested information is excepted from disclosure under section 552.101 in conjunction with section 441.192 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.[1]

Section 552.101 of the Government Code excepts from disclosure information considered to be confidential by law, either constitutional, statutory, or by judicial decision. Sections 411.192 and 411.193 of the Government Code govern the release of all information maintained by the department concerning the licensure of individuals to carry a concealed handgun. Section 411.192 provides:

> The department shall disclose to a criminal justice agency information contained in its files and records regarding whether a named individual or any individual named in a specified list is licensed under this subchapter. The department shall, on written request and payment of a reasonable fee to cover costs of copying, disclose to any other individual whether a named individual or any individual whose full name is listed on a specified written list is licensed under this subchapter. Information on an individual subject to

[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.

> disclosure under this section includes the individual's name, date of birth, gender, race, and zip code. *Except as otherwise provided by this section and by Section 411.193, all other records maintained under this subchapter are confidential and are not subject to mandatory disclosure under the open records law, Chapter 552, Government Code*, except that the applicant or license holder may be furnished a copy of disclosable records on request and the payment of a reasonable fee. The department shall notify a license holder of any request that is made for information relating to the license holder under this section and provide the name of the person or agency making the request. This section does not prohibit the department from making public and distributing to the public at no cost lists of individuals who are certified as qualified handgun instructors by the department.

Gov't Code § 411.192 (emphasis added). Section 411.193 further states:

> The department shall make available, on request and payment of a reasonable fee to cover costs of copying, a statistical report that includes the number of licenses issued, denied, revoked, or suspended by the department during the preceding month, listed by age, gender, race, and zip code of the applicant or license holder.

Gov't Code § 411.193.

We agree that the requested information is confidential under section 552.101 in conjunction with section 411.192 of the Government Code. Therefore, the department must withhold the requested information from disclosure.

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 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 General Services 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. 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,

Karen A. Eckerle
Assistant Attorney General
Open Records Division

KAE/er

Ref: ID# 145808

Encl: Submitted documents

cc: Ms Nancy Wilson
KVUE News
4201 Steck Avenue
Austin, Texas 78759
(w/o enclosures)