OFFICE OF THE ATTORNEY GENERAL · STATE OF TEXAS
JOHN CORNYN

October 29, 2001

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

OR2001-4935

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# 154138.

The Texas Department of Public Safety (the "department") received a request for the driving record of a specific individual. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code in conjunction with sections 521.045 and 601.022 of the Transportation Code. We also received comments from the requestor. *See* Gov't Code § 552.304. We have considered all of the submitted arguments and reviewed the submitted information.

The submitted information is governed by sections 521.045 and 601.022 of the Transportation Code. Section 521.045 provides:

> On receipt of a written request and payment of a $4 fee, the department may disclose information relating to an individual's date of birth, current license status, and most recent address, as shown in the department's records, to a person who:
>
> (1) is eligible to receive the information under Chapter 730; and
>
> (2) submits to the department the individual's driver's license number or the individual's full name and date of birth.

Transp. Code § 521.045. Section 601.022(a) states that the department "shall provide any person a certified abstract of the record of conviction of a person subject to this chapter for violation of a law relating to the operation of a motor vehicle or the record of any injury or damage caused by the person's operation of a motor vehicle if the requestor is eligible to

receive the information under Chapter 730." *Id.* § 601.022(a). Section 730.007 of the Transportation Code enumerates the requestors who are eligible to receive information from the department. You indicate that the requestor here is not eligible to receive the requested information under section 730.007. Thus, the department must withhold the submitted information pursuant to sections 521.045 and 601.022 of the Transportation 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).

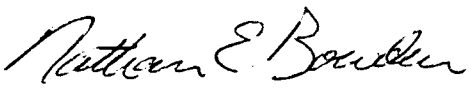
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records 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); *Tex. 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 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,



Nathan E. Bowden
Assistant Attorney General
Open Records Division

NEB/sdk

Ref: ID# 154138

Enc: Submitted documents

c: Mr. Tom Connors
209 Prairie Hall Rd.
Hearne, Texas 77859
(w/o enclosures)