OFFICE *of the* ATTORNEY GENERAL
GREG ABBOTT

December 5, 2002

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

OR2002-6936

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# 173139.

The Texas Department of Public Safety (the "department") received a request for a list of all names and addresses of persons who were granted a Texas commercial driver's license since January 1, 2002. The department claims that the requested information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. The department also asserts that it is not required to disclose the requested information pursuant to section 521.051 of the Transportation Code. We have considered your arguments and have reviewed the information you submitted.

Section 521.051 of the Transportation Code provides that the department "may not disclose class-type listings from the basic driver's license file to any person" except in certain situations as set out 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 only." You do not indicate, nor does it appear to this office, that section 521.049(c) is applicable in this instance.

In Open Records Decision No. 618 (1993), this office determined that 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."[1] Open Records Decision No. 618 at 3. We agreed that 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.*

The department contends that the requested information is a class-type listing that the department may not provide to the requestor. The department has submitted examples of the type of information that is at issue.[2] Upon consideration of your arguments and review of the submitted information, we agree that the department may not provide the requested information to the requestor. *See* Open Records Decision No. 618 at 4 (1993). As we are able to make this determination, we need not address the department's claims under sections 552.101 and 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 will be provided or that the records can be inspected; or 3) notify the requestor of the

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[1]We noted in Open Records Decision No. 618 (1993) 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.

[2]This letter ruling assumes that the submitted information is truly representative of the requested information as a whole. This ruling neither reaches nor authorizes the department to withhold any information that is substantially different from the submitted information. *See* Gov't Code § 552.301(e)(1)(D): Open Records Decision Nos. 499 at 6 (1988), 497 at 4 (1988).

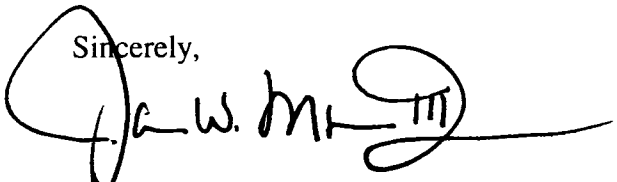
governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The 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 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,



James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/sdk

Ref: ID# 173139

Enc: Submitted documents

c: Ms. Ann Mathes
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(w/o enclosures)