



OFFICE of the ATTORNEY GENERAL
GREG ABBOTT

December 30, 2002

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

OR2002-7409

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# 174240.

The Texas Department of Public Safety (the "department") received a request to validate whether or not certain individuals on a list in a computer file on the requestor's CD-ROM disc hold a conceal and carry permit. In his request, the requestor indicated that he had prepared a computer file on a CD-ROM disc that contained individuals' Texas driver's license numbers, names, and dates of birth. However, the requestor has not submitted to the department the CD-ROM with the names and other information. You state that the department attempted to contact the requestor on October 15, 2002 by voice mail message regarding this request. You also state that, as of the date of your initial correspondence to this office regarding this request, October 18, 2002, the requestor had not responded to this voice mail message and had not provided the department with the computer file that the requestor referenced in his request for information. You claim that the requested information is excepted from disclosure pursuant to section 552.101 of the Government Code. We have reviewed the submitted representative sample documents.

The Public Information Act permits a governmental body to ask a requestor to clarify a request and to discuss with the requestor how the scope of a request might be narrowed. *See* Gov't Code § 552.222(b). While a governmental body and a requestor are communicating in good faith to clarify or narrow a request, the governmental body's duty to respond to the request is tolled until it is in receipt of the clarification or the narrowed response. *See* Open

Records Decision No. 663 (1999). In this case, the requestor has not responded to the department's request for the requestor to contact the department about the request or submitted to the department the referenced computer file with the list of individuals and other information. Until the requestor responds, we need not address your claimed exception to required public disclosure of the requested information.

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).

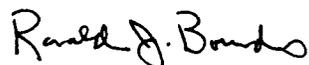
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following 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 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,



Ronald J. Bounds
Assistant Attorney General
Open Records Division

RJB/lmt

Ref: ID# 174240

Enc. Submitted documents

c: Mr. Bruce Stringfellow
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(w/o enclosures)