



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

December 21, 2009

Mr. Mark G. Mann  
Assistant City Attorney  
City of Garland  
P.O. Box 469002  
Garland, Texas 75046-9002

OR2009-18076

Dear Mr. Mann:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 370207 (GCA09-0899).

The Garland Police Department (the "department") received a request for information pertaining to charges filed against a named individual in 2009. You state you have released some information to the requestor. You claim the remaining requested information is excepted from disclosure under sections 552.101, 552.108, 552.130, and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information protected by other statutes, including section 1324a of title 8 of the United States Code, which provides that an Employment Eligibility Verification Form I-9 and "any information contained in or appended to such form, may not be used for purposes other than for enforcement of this chapter" and for enforcement of other federal statutes governing crime and criminal investigations. *See* 8 U.S.C. § 1324a(b)(5); *see also* 8 C.F.R. § 274a.2(b)(4). Release of the form in this instance would be "for purposes other than for enforcement" of the referenced federal statutes. Accordingly, we conclude the submitted I-9 form is confidential pursuant to section 552.101 of the Government Code in conjunction with section 1324a of title 8 of the United States

Code and may only be released in compliance with the federal laws and regulations governing the employment verification system.

Next, you claim that the information you have marked in red is excepted from disclosure under section 552.108 of the Government Code. Section 552.108(a)(1) excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov’t Code § 552.108(a)(1). Generally, a governmental body claiming section 552.108(a)(1) must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You inform us that the submitted information relates to a pending criminal investigation. Based upon your representation and our review, we find that section 552.108(a)(1) is applicable to the information you have marked in red. *See Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref’d n.r.e.*, 536 S.W.2d 559 (Tex. 1976) (per curiam) (court delineates law enforcement interests that are present in active cases). The department may, therefore, withhold the information you marked in red pursuant to section 552.108(a)(1) of the Government Code.<sup>1</sup>

You assert some of the remaining information is excepted from disclosure under section 552.130 of the Government Code, which provides that information relating to a motor vehicle operator’s license, driver’s license, motor vehicle title, or registration issued by a Texas agency is excepted from public release. Gov’t Code § 552.130(a)(1), (2). Upon review, we agree the information you have marked must generally be withheld under section 552.130. We note, however, that the requestor may be the authorized representative of the individual named in the request. As such, this requestor, if acting as the named individual’s authorized representative, has a right of access to this individual’s marked Texas motor vehicle record information. *See id.* § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when an individual or authorized representative asks governmental body to provide information concerning that individual). To the extent the requestor has a right of access under section 552.023 to the named individual’s marked Texas motor vehicle record information, the department must release this individual’s information to this requestor.<sup>2</sup> To the extent this requestor does not have a right of access under section 552.023 to the named individual’s information, the department must withhold the named individual’s information, along with the remaining marked information, under section 552.130 of the Government Code.

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<sup>1</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure of portions of this information.

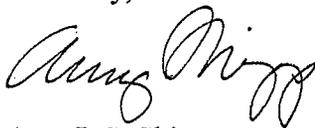
<sup>2</sup>In that case, should the department receive another request for this particular information from a different requestor, then the department should again seek a decision from this office. *See* Gov’t Code §§ 552.301(a), .302.

In summary, the department must withhold the submitted I-9 form under section 552.101 of the Government Code in conjunction with section 1324a of title 8 of the United States Code. The department may withhold the information you have marked in red under section 552.108(a)(1) of the Government Code. The department must withhold the marked Texas motor vehicle record information under section 552.130 of the Government Code, unless the requestor is acting as the authorized representative of the individual named in the request. If so, the department must release the named individual's Texas motor vehicle record information pursuant to section 552.023 of the Government Code. The department must release the remaining information to the requestor.<sup>3</sup>

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Amy L.S. Shipp  
Assistant Attorney General  
Open Records Division

ALS/rl

Ref: ID# 370207

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)

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<sup>3</sup>We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including a Form I-9 under section 552.101 of the Government Code in conjunction with section 1324a of title 8 of the United States Code, and Texas driver's license numbers and a copy of a Texas driver's license under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.