



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

November 29, 2017

Mr. David D. Duncan  
General Counsel  
Texas Department of Motor Vehicles  
4000 Jackson Avenue  
Austin, Texas 78731

OR2017-27080

Dear Mr. Duncan:

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# 688089 (TxDMV ID # 18-0112).

The Texas Department of Motor Vehicles (the "department") received a request for five categories of information pertaining to a named individual in connection with a specified fraud case. You state the department has released some information to the requestor. You claim the requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim.

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. You contend the submitted information is excepted from disclosure under section 552.101 in conjunction with rule 6 of the Federal Rules of Criminal Procedure. Rule 6(e) provides, in pertinent part, the following provides:

...

(2) Secrecy.

(A) No obligation of secrecy may be imposed on any person except in accordance with Rule (6)(e)(2)(B).

(B) Unless these rules provide otherwise, the following persons must not disclose a matter occurring before the grand jury:

- (i) a grand juror;
- (ii) an interpreter;
- (iii) a court reporter;
- (iv) an operator of a recording device;
- (v) a person who transcribes recorded testimony;
- (vi) an attorney for the government; or
- (vii) a person to whom disclosure is made under Rule 6(e)(3)(A)(ii) or (iii).

(3) Exceptions.

(A) Disclosure of a grand-jury matter—other than the grand jury’s deliberations or any grand jury’s vote—made be made to:

...

- (ii) any government personnel—including those of a state, state subdivision, Indian tribe, or foreign government—that an attorney for the government considers necessary to assist in performing that attorney’s duty to enforce federal criminal law[.]

...

(B) A person to whom information is disclosed under Rule 6(e)(3)(A)(ii) may use that information only to assist an attorney for the government in performing that attorney’s duty to enforce federal criminal law. An attorney for the government must promptly provide the court that impaneled the grand jury with the names of all persons to whom disclosure has been made, and must certify that the

attorney had advised those persons of their obligation of secrecy under this rule.

Fed. R. Crim. P. 6(e)(2),(3)(A)(ii)(B). You inform us the department came into possession of the information at issue during the course of a federal criminal investigation. You further inform us, and provide documentation demonstrating, a fraud investigator for the department received a letter from an Assistant United States Attorney ordering the department to keep all materials the department received in connection with the investigation at issue confidential. We therefore conclude that the information at issue came into the possession of the department by operation of, or statutory exception to, the secrecy rule. *See id.* Accordingly, we conclude the requested information is confidential under Rule 6. Therefore, the department must withhold the requested information at issue under section 552.101 of the Government Code in conjunction with Rule 6 of the Federal Rules of Criminal Procedure.<sup>1</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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Kieran Hillis  
Assistant Attorney General  
Open Records Division

KH/sb

Ref: ID# 688089

c: Requestor

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