



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 24, 2009

Mr. Gregory A. Alicie  
Open Records Specialist  
Baytown Police Department  
3200 North Main Street  
Baytown, Texas 77521

OR2009-02390

Dear Mr. Alicie:

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# 335780.

The Baytown Police Department (the "department") received a request for a specified incident report. You state you will redact the social security numbers marked in green under section 552.147 of the Government Code.<sup>1</sup> You claim portions of the submitted information are excepted from disclosure under sections 552.108 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

We note the submitted information involves an alleged violation of section 32.51 of the Penal Code, which provides that "[a] person commits an offense if the person obtains, possesses, transfers, or uses identifying information of another person without the other person's consent and with intent to harm or defraud another." Penal Code § 32.51(b). For purposes of section 32.51, "identifying information" includes an individual's financial institution account number. *Id.* § 32.51(a)(1)(c). Article 2.29 of the Code of Criminal Procedure pertains to alleged violations of section 32.51 that occurred on or after September 1, 2005 and provides as follows:

---

<sup>1</sup>Section 552.147(b) of the Government Code authorizes a government body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

(a) A peace officer to whom an alleged violation of Section 32.51, Penal Code, is reported shall make a written report to the law enforcement agency that employs the peace officer that includes the following information:

- (1) the name of the victim;
- (2) the name of the suspect, if known;
- (3) the type of identifying information obtained, possessed, transferred, or used in violation of Section 32.51, Penal Code; and
- (4) the results of any investigation.

(b) On the victim's request, the law enforcement agency shall provide the report created under Subsection (a) to the victim. In providing the report, the law enforcement agency shall redact any otherwise confidential information that is included in the report, other than the information described by Subsection (a).

Crim. Proc. Code art. 2.29. For the purposes of article 2.29, an offense is committed on or after September 1, 2005 if no "element of the offense occurs before that date." Act of June 17, 2005, 79th Leg., R.S., ch. 294, § 1(b), 2005 Tex. Gen. Laws 885.

In this instance, the submitted information relates to forgery, and the requestor is listed as the victim. Furthermore, the submitted information is related to an offense that occurred after September 1, 2005. Therefore, the submitted information is subject to article 2.29 of the Code of Criminal Procedure and must be released to the requestor, unless it contains confidential information. You seek to withhold portions of the submitted information under section 552.108 of the Government Code. Section 552.108 does not make information confidential for purposes of article 2.29. *See* Open Records Decision No. 177 at 3 (1977) (statutory predecessor to section 552.108 subject to waiver). Thus, the submitted information may not be withheld under section 552.108. Section 552.130 of the Government Code makes information confidential for purposes of article 2.29. We will, therefore, address your claim under this exception.

Section 552.130 provides 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). Therefore, the department must withhold the Texas motor vehicle information we have marked in the submitted report under section 552.130. However, the remainder of the information you have marked in pink does not constitute Texas motor vehicle record information and may not be withheld under section 552.130.

In summary, the department must withhold the Texas motor vehicle information we have marked under section 552.130 of the Government Code. The remaining information must be released pursuant to section 2.29 of the Code of Criminal Procedure.<sup>2</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 at (512) 475-2497.

Sincerely,



Olivia A. Maceo  
Assistant Attorney General  
Open Records Division

OM/eeg

Ref: ID# 335780

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

---

<sup>2</sup>We note the requestor has a special right of access to information in the submitted documents that otherwise would be exempted from release under the Act. Gov't Code § 552.023 (person or person's authorized representative has special right of access to records that contain information relating to the person that are protected from public disclosure by laws intended to protect that person's privacy interests). Thus, the department must again seek a decision from this office if it receives a request for this information from a different requestor.