



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 1, 2009

Ms. Luz E. Sandoval-Walker  
Assistant City Attorney  
City of El Paso  
2 Civic Center Plaza, 9th Floor  
El Paso, Texas 79901

OR2009-13848

Dear Ms. Sandoval-Walker:

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# 357193.

The El Paso Police Department (the "department") received a request for information pertaining to a specified incident. You state that you have released some of the requested information to the requestor. You claim that the submitted information is excepted from disclosure under section 552.108 of the Government Code. You have also provided an affidavit from an attorney with the El Paso District Attorney's Office who claims that the submitted information is excepted from disclosure under section 552.103 of the Government Code. We have considered the claimed exceptions and reviewed the submitted information.

We note that the submitted report involves alleged violations of section 32.51 of the Penal Code. Section 32.51 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). 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:

- (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 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 Jun. 17, 2005, 79th Leg., R.S., ch. 294, § 1(b), 2005 Tex. Gen. Laws 885.

In this instance, the submitted report relates to a charge of credit card abuse, which constitutes an alleged violation of section 32.51, and the requestor is listed as the victim. Furthermore, the submitted report relates to an offense that occurred after September 1, 2005. Thus, the submitted report is subject to article 2.29 of the Code of Criminal Procedure and must be released to the requestor, except to the extent it contains confidential information. You and the district attorney seek to withhold the submitted information under sections 552.103 and 552.108 of the Government Code. As a general rule, however, the exceptions to disclosure found in the Act do not apply to information that other statutes make public. *See* Open Records Decision Nos. 623 at 3 (1994), 525 at 3 (1989). Therefore, the department may not withhold any of the submitted information under section 552.103 or section 552.108. However, we note the submitted report contains information subject to section 552.130 of the Government Code.<sup>1</sup> As this exception is a confidentiality provision, we will address its applicability to the submitted information.

Section 552.130 of the Government Code excepts from disclosure information that "relates to . . . a motor vehicle operator's or driver's license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state." Gov't Code § 552.130. We have marked a license plate number that the department must withhold

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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

under section 552.130 of the Government Code. The remaining information at issue must be released to this requestor in accordance with article 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, toll free, at (888) 672-6787.

Sincerely,



Adam Leiber  
Assistant Attorney General  
Open Records Division

ACL/rl

Ref: ID# 357193

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>2</sup>We note that because this requestor has a special right of access to the information being released, the department must again ask this office for a decision if it receives another request for this report from a different requestor.