



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 5, 2008

Chief Don Hatcher  
Leander Police Department  
P. O. Box 319  
Leander, Texas 78646-0319

OR2008-10529

Dear Chief Hatcher:

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# 317817.

The Leander Police Department (the "department") received a request for information relating to a specified case number. You state that you have released some information to the requestor. You claim that the submitted information is 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 that the submitted information is related to 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). 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 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 Jun. 17, 2005, 79th Leg., R.S., ch. 294, § 1(b), 2005 Tex. Gen. Laws 885.

In this instance, the submitted police report involves alleged forgery, and the requestor is the victim of the crime. Moreover, the report 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, except to the extent that the information is confidential. You seek to withhold the submitted information under section 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). Thus, the department may not withhold any of the submitted information under section 552.108. However, section 552.130 of the Government Code makes information confidential for purposes of article 2.29; therefore, we will address whether the submitted information is excepted under section 552.130.

Section 552.130 of the Government Code 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). As you acknowledge, the requestor has a right of access to his own information pursuant to section 552.023 of the Government Code. *See id.* § 552.023(a) ("a person or a person's authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy interests."); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Further, the requestor is the spouse of one of the individuals whose Texas motor vehicle record information is at issue. Thus, the requestor may have a right of access to his wife's Texas motor vehicle record information under section 552.023. *See* Gov't Code § 552.023(a). To the extent the requestor is the

authorized representative of his wife, he has a right of access to his wife's information, and it may not be withheld under section 552.130. To the extent the requestor is not his wife's authorized representative, the department must withhold the wife's Texas motor vehicle record information, as well as the information pertaining to individuals other than the requestor, all of which we have marked, pursuant to section 552.130 of the Government Code.

In summary, if the requestor is not acting as his wife's authorized representative, the department must withhold the wife's motor vehicle record information, which we have marked, pursuant to section 552.130 of the Government Code. To the extent the requestor is acting as his wife's authorized representative, his wife's motor vehicle record information must be released.<sup>1</sup> The department must withhold the remaining Texas motor vehicle record information that we have marked pursuant to section 552.130 of the Government Code. The remaining information must be released to the requestor.<sup>2</sup>

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 file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3). If the governmental body does not file suit over 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, upon receiving this ruling, the governmental body

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<sup>1</sup>If the department receives another request for this information from a person who would not have a special right of access to the Texas motor vehicle record information, the department should resubmit that information and request another decision. *See* Gov't Code §§ 552.301(a), .302; Open Records Decision No. 673 (2001).

<sup>2</sup>We note that the submitted information contains social security numbers. Section 552.147(b) of the Government Code authorizes a governmental 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. The requestor has a right, however, to his social security number and his wife's social security number if the requestor is acting as his wife's authorized representative. *See generally* Gov't Code § 552.023(a).

will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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 challenge that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. 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 Office of the Attorney General 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. 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,



Bill Longley  
Assistant Attorney General  
Open Records Division

BL/eeg

Ref: ID# 317817

Enc. Submitted documents

c: Mr. Andy Bradford Webb  
9746 South Highway 281  
Lampasas, Texas 76550  
(w/o enclosures)