



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 19, 2008

Mr. B. Chase Griffith
Brown & Hofmeister, L.L.P.
740 East Campbell Road Suite 800
Richardson, Texas 75081

OR2008-17308

Dear Mr. Griffith:

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# 334626.

The Town of Flower Mound (the "town"), which you represent, received a request for a police report relating to a specified CAD number. You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the information you submitted.

We note that the submitted report 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). 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 report involves alleged fraudulent use or possession of identifying information, and the requestor is listed as the crime victim. Furthermore, the report involves an offense that occurred after September 1, 2005. Thus, the report is subject to article 2.29 of the Code of Criminal Procedure and must be released to the requestor, except to the extent that it contains confidential information. You seek to withhold the report 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 town may not withhold the submitted report under section 552.108. Instead, the report must be released in its entirety pursuant to article 2.29 of the Code of Criminal Procedure.¹

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).

¹We note that the submitted report contains the requestor's Texas driver's license number. Section 552.130 of the Government Code, which is a confidentiality provision for the purposes of article 2.29, exempts from public disclosure information relating to a motor vehicle operator's or driver's license or permit issued by an agency of this state. *See* Gov't Code § 552.130(a)(1). However, because section 552.130 protects personal privacy, the requestor has a right of access to her own Texas driver's license number under section 552.023 of the Government Code. *See id.* § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself).