



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 20, 2009

Ms. Linda M. Champion  
Assistant City Attorney  
City of Victoria  
P.O. Box 1758  
Victoria, Texas 77902-1758

OR2009-06886

Dear Ms. Champion:

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# 343579.

The City of Victoria (the "city") received a request for two specified offense reports. You state you have released some of the requested information. You claim that the submitted information is excepted from disclosure under sections 552.108, 552.111, and 552.130 of the Government Code.<sup>1</sup> We have considered your arguments and reviewed the submitted information.

We note that the submitted reports involve 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:

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<sup>1</sup>Although you raise section 552.101 of the Government Code in conjunction with the attorney work product privilege, we note the proper exception under which to claim this privilege is section 552.111. Section 552.101 does not encompass discovery privileges. *See* Open Records Decision Nos. 676 at 1-2 (2002), 575 at 2 (1990).

(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. In this instance, the submitted reports pertain to identity theft, which constitutes an alleged violation of section 32.51. The requestor here is the victim listed in the reports. Furthermore, the reports relate to offenses that occurred after September 1, 2005. Thus, these reports are subject to article 2.29 of the Code of Criminal Procedure and must be released to the requestor, except to the extent that they contain confidential information. You seek to withhold the reports under sections 552.108 and 552.111 of the Government Code. As a general rule, 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, sections 552.108 and 552.111 are not applicable to the submitted reports. However, you also claim that the submitted reports contain information subject to section 552.130 of the Government Code. 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 Texas-issued driver's license information that must be withheld under section 552.130 of the Government Code. The remaining information at issue must be released to this requestor.<sup>2</sup>

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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 city must again ask this office for a decision if it receives another request for this report from a different requestor.

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,



Tamara Wilcox  
Assistant Attorney General  
Open Records Division

TW/eeg

Ref: ID# 343579

Enc. Submitted documents

c: Requestor  
(w/o enclosures)