



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 26, 2010

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

OR2010-01228

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# 372709 (No. 09-2195).

The McKinney Police Department (the "department"), which you represent, received a request for information relating to a specified case 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 information is related to an alleged violation of section 32.51 of the Penal Code. *See* Penal Code § 32.51(b). Article 2.29 of the Code of Criminal Procedure pertains to an alleged violation 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).

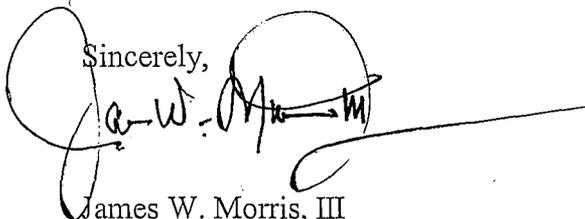
Crim. Proc. Code art. 2.29. For the purposes of article 2.29, an offense is committed on or after September 1, 2005 if no "element of the offense occurs before that date." Act of Jun. 17, 2005, 79th Leg., R.S., ch. 294, § 1(b), 2005 Tex. Gen. Laws 885.

In this instance, the submitted incident report involves alleged fraudulent use or possession of identifying information, and the requestor is listed as the crime victim. Moreover, the information is related to an offense that occurred after September 1, 2005. Therefore, the information at issue 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 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 department may not withhold any of the submitted information under section 552.108. Therefore, as none of the information at issue is confidential, the submitted incident report must be released in its entirety pursuant to article 2.29 of the Code of Criminal Procedure.

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,



James W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/cc

Ref: ID# 372709

Enc: Submitted documents

c: Requestor  
(w/o enclosures)