



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 31, 2011

Mr. Robert Almonte
Assistant City Attorney
City of El Paso
2 Civic Center Plaza, 9th Floor
El Paso, Texas 79901-11969

OR2011-12643

Dear Mr. Almonte:

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# 433039.

The El Paso Police Department (the "department") received a request for the supplemental and arrest reports to a specified incident. You state the department has released a redacted copy of the #1 Complaint Report. You claim that the remaining information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception 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, with the intent to harm or defraud another, obtains, possesses, transfers, or uses . . . identifying information of another person without the other person's consent[.]" 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 June 17, 2005, 79th Leg., R.S., ch. 294, § 1(b), 2005 Tex. Gen. Laws 885.

In this instance, the report relates to fraudulent charges on a person's debit card, which constitutes an alleged violation of section 32.51, and the requestor is listed as the victim. Furthermore, the report is related to an offense that occurred after September 1, 2005. Therefore, the report is subject to article 2.29 of the Code of Criminal Procedure and must be released to the requestor, unless the report contains confidential information. You seek to withhold the report at issue under section 552.108 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, the report may not be withheld under section 552.108 and the submitted information must be released to the requestor.¹

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, 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

¹ 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 information from a different requestor.

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,

A handwritten signature in black ink that reads "Sean Opperman" with a long, sweeping horizontal flourish extending to the right.

Sean Opperman
Assistant Attorney General
Open Records Division

SO/sdk

Ref: ID# 433039

Enc. Submitted documents

c: Requestor
(w/o enclosures)