



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 24, 2012

Ms. Kristy Ashberry
City Secretary
City of Rockwall
385 South Goliad
Rockwall, Texas 75087

OR2012-01128

Dear Ms. Ashberry:

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# 448168.

The Rockwall Police Department (the “department”) received a request for a specified case report. You claim the requested information is excepted from disclosure under sections 552.108, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the information you submitted.

We note the submitted report pertains 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 an item of . . . identifying information of another person without the other person’s consent[.]” Penal Code § 32.51(b)(1). 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 Jun. 17, 2005, 79th Leg., R.S., ch. 294, § 1(b), 2005 Tex. Gen. Laws 885.

In this instance, the submitted report involves identity theft, the offense occurred after September 1, 2005, and the requestor is listed as the crime victim. Therefore, the submitted report is subject to article 2.29 of the Code of Criminal Procedure and must be released to this requestor, except to the extent it contains confidential information. Although you seek to withhold the report under sections 552.108 and 552.147 of the Government Code, as a general rule the exceptions to disclosure found in the Act do not apply to information other statutes make public. *See* Open Records Decision Nos. 623 at 3 (1994), 525 at 3 (1989). Therefore, sections 552.108 and 552.147 are not applicable to the submitted report. You also seek to withhold the requestor's driver's license number under section 552.130 of the Government Code, which is a confidentiality provision for purposes of article 2.29. But because section 552.130 protects personal privacy, the requestor has a right of access to his own driver's license number under section 552.023 of the Government Code. *See* Gov't Code § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself).¹ Thus, the requestor's driver's license number may not be withheld in this instance under section 552.130. Instead, the submitted report must be released to this requestor in its entirety pursuant to article 2.29 of the Code of Criminal Procedure.

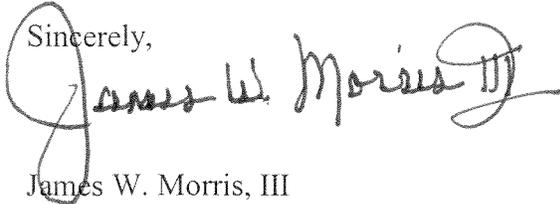
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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.

¹Section 552.023 provides in part that "[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." Gov't Code § 552.023(a).

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,

A handwritten signature in black ink that reads "James W. Morris III". The signature is written in a cursive style with a large, looping initial "J".

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

JWM/em

Ref: ID# 448168

Enc: Submitted documents

c: Requestor
(w/o enclosures)