



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 16, 2014

Ms. Michelle T. Rangel  
Assistant County Attorney  
Fort Bend County  
301 Jackson Street, Third Floor  
Richmond, Texas 77469

OR2014-10322

Dear Ms. Rangel:

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# 531169.

The Fort Bend County Sheriff's Office (the "sheriff's office") received two requests from the same requestor for information regarding incidents on three specified dates. You state some of the requested information will be released. You claim the submitted 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 report number 14-4089 and related call slip number P140440149 involve an alleged violation of section 32.51 of the Penal Code, which provides, "[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). For purposes of section 32.51, "identifying information" includes an individual's name and telecommunication identifying information or access device. *Id.* § 32.51(a)(1)(A), (D). 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:

(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 submitted information pertains to fraudulent use of telecommunication identifying information or access device, which constitutes an alleged violation of section 32.51. We note the requestor is the victim of the alleged identity theft listed in the report, and the alleged offense occurred after September 1, 2005. Therefore, report number 14-4089 and related call slip number P140440149 are subject to article 2.29 of the Code of Criminal Procedure and must be released to the requestor, except to the extent the information at issue contains confidential information. *See* Crim. Proc. Code art. 2.29. Although you seek to withhold this information under section 552.108 of the Government Code, this exception does not make information confidential. *See* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 586 (1991) (governmental body may waive section 552.108). Therefore, the sheriff's office may not withhold report number 14-4089 and related call slip number P140440149 under section 552.108 of the Government Code. However, we note a portion of the information at issue is subject to section 552.130 of the Government Code.<sup>1</sup> Because section 552.130 is a confidentiality provision, we will address its applicability to this information. We will also address your argument against disclosure of the remaining information.

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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception like section 552.130 on behalf of a governmental body. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Section 552.108(a) of the Government Code excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov’t Code 552.108(a)(1). Generally, a governmental body claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977).

You state report number 14-2735 and related call slip number P140290612 pertain to a pending criminal investigation. Based upon this representation, we find the sheriff’s office has demonstrated the release of report number 14-2735 and related call slip number P140290612 would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88. We note basic information includes a detailed description of the offense and an identification and description of the complainant, but does not include motor vehicle information encompassed by section 552.130 of the Government Code. *See* Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public *Houston Chronicle*); *see* Gov’t Code § 552.130. Thus, with the exception of the basic information, the sheriff’s office may withhold report number 14-2735 and related call slip number P140290612 from disclosure under section 552.108(a)(1) of the Government Code.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator’s or driver’s license issued by an agency of this state or another state or country is excepted from public release. *See* Gov’t Code § 552.130(a)(1). Accordingly, the sheriff’s office must withhold the information we have marked under section 552.130 of the Government Code.

In summary, with the exception of the basic information, the sheriff’s office may withhold report number 14-2735 and related call slip number P140290612 from disclosure under section 552.108(a)(1) of the Government Code. The sheriff’s office must withhold the information we have marked under section 552.130 of the Government Code. The sheriff’s office must release the remaining information to this requestor 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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/dls

Ref: ID# 531169

Enc. Submitted documents

c: Requestor  
(w/o enclosures)