



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 24, 2019

Ms. L. Carolyn Nivens
Counsel for City of Seabrook
Ross, Banks, May, Cron & Cavin, P.C.
7700 San Felipe, Suite 550
Houston, Texas 77063

OR2019-13816

Dear Ms. Nivens:

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# 770949 (File# 3957-8/West).

The City of Seabrook (the "city") received a request for a specified police report. The city claims the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception the city claims and reviewed the submitted information.

We note the submitted information involves 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, financial institution account number, and social security number or other government-issued identification number. *Id.* § 32.51(a)(1)(A), (C), (E). 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.


The submitted information pertains to fraudulent use or possession of identifying information, an alleged violation of section 32.51 of the Penal Code. The requestor is the victim of the alleged offense, and the alleged offense occurred after September 1, 2005. Therefore, the submitted information is subject to article 2.29 of the Code of Criminal Procedure. *See* Crim. Proc. Code art. 2.29. Although you seek to withhold the submitted information under section 552.108 of the Government Code, section 552.108 does not make information confidential. *See* ORDs 177, 665 at 2 n.5. Accordingly, the city may not withhold the submitted information from this requestor under section 552.108 of the Government Code. As it raises no other exceptions to disclosure, the city must release the submitted information.

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, 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,

A handwritten signature in black ink, appearing to read "Jesse Harvey", with a long horizontal stroke extending to the right.

Jesse Harvey
Assistant Attorney General
Open Records Division

JH/be

Ref: ID# 770949

Enc. Submitted documents

c: Requestor
(w/o enclosures)