

July 25, 2023

Mark Burke, Requestor VIA E-MAIL: BLOG@BLOGGERINC.ORG

RE: Public Information Request Received July 11, 2023

Requestor: Mark Burke

Reference: P230041 (Burke23-182)

Dear Mr. Burke:

The Galveston County Sheriff's Office ("GCSO") is in receipt of your above-referenced public information request. The GCSO contends that a portion of the information you requested is excepted from public disclosure under the Texas Government Code, Chapter 552, and that such information may be withheld. Because the GCSO asserts that certain information requested is excepted from disclosure, the GCSO has submitted a request for a decision from the Texas Attorney General, in accordance with Section 552.301 of the Government Code. A copy of the of the brief is attached along with the basic information responsive to your request.

Very truly yours, OLSON & OLSON, LLP

/s/ Bridgette A. Begle Bridgette A. Begle

BB/jn enclosures

cc.: Brian Begle, Attorney VIA E-MAIL

Brent Haynes, GCSO VIA E-MAIL



July 25, 2023

The Honorable Ken Paxton Open Records Division P.O. Box 12548 Austin, Texas 78711-2548

VIA CMRRR

RE: Public Information Act Request Received July 11, 2023

Requestor: Mark Burke

Reference: P230041 (Burke23-182)

Dear Attorney General:

The Galveston County, Texas, Sheriff's Office (the "GCSO") received a public information request on July 11, 2023. **[EXHIBIT 1]** The 10th business day after the date of the request is July 25, 2023. In accordance with Texas Government Code § 552.301(e), the GCSO now timely submits this brief or other written comments stating the reasons why the information requested is excepted from disclosure. The requestor is seeking information related to a specific incident. The responsive information is attached for your review. **[EXHIBIT 2]**

Texas Occupations Code §1701.

The GCSO notes that a portion of the responsive information to the request includes body worn camera recordings. Body worn cameras are subject to Chapter 1701 of the Occupations Code. Chapter 1701 provides the procedures a requestor must follow when seeking a body worn camera recording. Section 1701.661(a) – (d) provides:

- (a) A member of the public is required to provide the following information when submitting a written request to a law enforcement agency for information recorded by a body worn camera:
 - (1) the date and approximate time of the recording;
 - (2) the specific location where the recording occurred; and
 - (3) the name of one or more persons known to be a subject of the recording.

- (b) A failure to provide all of the information required by Subsection (a) to be part of a request for recorded information does not preclude the requestor from making a future request for the same recorded information.
- (c) Except as provided by Subsection (d), information recorded by a body worn camera and held by a law enforcement agency under this subchapter is not subject to the requirements of Section 552.021, Government Code.
- (d) Information that is or could be used as evidence in a criminal prosecution is subject to the requirements of Section 552.021, Government Code.

The requestor has complied with the requirements of Occupations Code Section 1701.661(a). Notwithstanding the requestor's compliance, pursuant to Occupations Code Section 1701.662, the responsive information is still subject to the requirements of Government Code Chapter 552. Thus, the GCSO contends that the information is further excepted from disclosure:

§552.101 w/ Citizen Date of Birth

The responsive documents contain birth dates of public citizens. Section 552.101 of the Texas Government Code encompasses the doctrine of common-law privacy. Indus. Found. v. Tex. Indus. Accident Bd., 540 S.W.2d 668, 685 (Tex. 1976). Under the common-law right of privacy, an individual has a right to be free from the publicizing of private affairs in which the public has no legitimate concern. Id. at 682. In considering whether a public citizen's date of birth is private, the Third Court of Appeals looked to the Supreme Court's rationale in Texas Comptroller of Public Accounts v. Attorney General of Texas, 354 S.W.3d 336 (Tex. 2010). Paxton v. City of Dallas, No. 03-13-00546-CV, 2015 WL 3394061, at *3 (Tex. App.—Austin May 22, 2015, pet. denied) (mem. op.) The Supreme Court concluded public employees' dates of birth are private under section 552.102 of the Texas Government Code because the employees' privacy interest substantially outweighed the negligible public interest in disclosure. Texas Comptroller, 354 S.W.3d at 347-48. Based on Texas Comptroller, the Court of Appeals concluded the privacy rights of public employees apply equally to public citizens, and thus, public citizens' dates of birth are also protected by common-law privacy pursuant to section 552.101. City of Dallas, 2015 WL 3394061, at *3. Thus, the GCSO may withhold all public citizens' dates of birth under section 552.101 of the Texas Government Code.

§552.108(a)(1) and (b)(1)

The information is excepted from disclosure under the Public Information Act by Texas Government Code Sections 552.108(a)(1) and (b)(1). According to the GCSO,

Texas Attorney General July 25, 2023 Page 3

this is an active case. This case, which involves violation of criminal statutes and imposition of criminal penalties upon conviction, is pending and the documents contain information that may be introduced at trial. The criminal prosecution may rest on the ability of law enforcement officials to protect information until enough facts and evidence have been developed in order to put forth a successful prosecution. Facts are still being gathered relating to this offense, and release of the requested information may ultimately hinder the investigation and prosecution of this case due to the potential for obstruction by outside influences.

The GCSO recognizes, however, certain information in the documents provided herein is not excepted, pursuant to *Houston Chronicle Publishing Company v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), writ ref'd n.r.e. per curiam, 536 S.W.2d 559 (1976). This information has been released to the requestor.

Thank you for your consideration of this matter. If you should require more information, please do not hesitate to contact me.

Respectfully submitted, OLSON & OLSON, LLP

/s/ Bridgette A. Begle Bridgette A. Begle

BAB/jn enclosure cc w/o encl.:

Mark Burke, Requestor VIA E-MAIL

Brian Begle, Attorney <u>VIA E-MAIL</u>

Brent Haynes, GCSO VIA E-MAIL

EXHIBIT 1 WRITTEN REQUEST FOR INFORMATION

From: Blogger Inc
To: Records.GCSO

Subject: Fw: Public Information Request :: W013241-071023

Date: Tuesday, July 11, 2023 10:28:30 AM

Good morning,

I have been kindly referred by Luis Barrera for the City of Galveston to yourselves, based on the fact the criminal arrest and complaint regarding ANDREW PETER LEHMAN was dealt with by the Galveston County Sheriff's Office, Offense Report No. 22-00004674.

I hereby forward the details of my PIA request for your attention. Please confirm receipt.

Thank you.

Cheers,

Mark Burke Blogger Inc.

From: Galveston TX Public Information Center <galvestontx@mycusthelp.net>

Sent: Tuesday, July 11, 2023 9:57 AM **To:** Blogger Inc <blog@bloggerinc.org>

Subject: Public Information Request :: W013241-071023

--- Please respond above this line ---



07/11/2023 9:54 AM

RE: PUBLIC INFORMATION ACT REQUEST of 7/10/2023, Reference #W013241-071023

Dear Mark,

The City received a public information request from you on 7/10/2023. Your request mentioned:

"Records Requested: "SEEKING COMPLAINT INFORMATION IN POLICE REPORT AGAINST ANDREW PETER LEHMAN AS STATED BELOW FILED BY PATRICK CLINE

Type of Records: Public Information Report Arrest Record / Jail Booking Blotter Case File Incident/Offense Report Mug Shot / Booking Photo BWC (Body-Worn Camera)

To properly request body worn camera video, a member of the public is required to provide all of the following information:

1. The date and approximate time of the recording; Nov 1, 2022

see; https://lawsintexas.com/pr/2m8 2.

The specific location where the recording occurred;

see; https://lawsintexas.com/pr/2m8

and

3. The name of one or more involved parties known to be a subject of the recording.

ANDREW PETER LEHMAN

see; https://lawsintexas.com/pr/2m8"

A message from City staff has been added to your request.

Please contact:

Galveston County Sheriff Office

Address: 601 54th St, Galveston, TX 77551

Phone: (409) 766-2322

gcsorecords@co.galveston.tx.us

(Or):

County of Galveston
722 Moody Avenue,
Galveston, Texas 77550
(409) 762-8621
https://www.galvestoncountytx.gov/

If you have any questions, or wish to discuss this further, please contact the City Secretary's office at 409.797.3510.

Sincerely,

Luis Barrera, Records Management Specialist
City Secretary's Office
P.O. Box 779 Galveston, TX 77553 | 823 25th St. Galveston, TX 77550
O: 409.797.3510 | D: 409.797.3514



Track the status or update the request by following this link: https://galvestontx.mycusthelp.com/WEBAPP/ rs/RequestEdit.aspx?rid=13241&coid=

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| | Agency Name | | | | | | INCIDENT/INVESTIGATION | | | | | | | - 1 | Case# 22-00004674 | | | | | | |
| | Galveston County Sheriff's Office | | | | | | - | REPORT | | | | | | | I | Date / Time Reported | | | | | |
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 R_CS1IBR

Incident Report Additional Name List

Galveston County Sheriff's Office

OCA: 22-00004674

Additional Name List

| Name Co | ode/# | Name (Last, First, Middle) | Victim of Crime # | DOB | Age Race Sex |
|---------|-------|----------------------------|----------------------|-----|--------------|
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INCIDENT/INVESTIGATION REPORT

Galveston County Sheriff's Office

Case # 22-00004674

| Statu Code | s 1 = | None | 2 = Burned $3 = C$ | Counterfeit / Forged | 4 = Damaged / Vandalized | 5 = Recovered $6 = $ S | eized 7 = Stolen 8 = Unknown |
|---------------|-------|--------|--------------------|----------------------|--|------------------------|---|
| | IBR | Status | Quantity | Type Measure | Suspected Ty | уре | Up to 3 types of activity |
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| | BE | | (7591), DORSI | | , DUNN, C.D. (6947), 1 A. (7806), MILLER, K.B | | HICKERSON, A.J. (2070), LEWIS, S.K. NDS, S. (7412) |
| | | | | | | | |

Suspect Hate / Bias Motivated: UNKNOWN (NO BIAS)

INCIDENT/INVESTIGATION REPORT

Narr. (cont.) OCA: 22-00004674 Galveston County Sheriff's Office

NARRATIVE SYNOPSIS:

This report will document the offense of Aggravated Assault W/Deadly Weapon which occurred at 7120 E Hunter Dr. Hitchcock, Galveston County, Texas.

REPORTING OFFICER NARRATIVE

| 1122 0 | OCA | | | |
|-----------------------------------|----------------------|----------------------|--|--|
| Galveston County Sheriff's Office | | 22-00004674 | | |
| Victim | Offense | Date / Time Reported | | |
| CLINE, PATRICK ALEXANDER SR | ASSAULT - AGGRAVATED | Tue 11/01/2022 03:24 | | |

THE INFORMATION BELOW IS CONFIDENTIAL - FOR USE BY AUTHORIZED PERSONNEL ONLY

INTRODUCTION:

On 11/01/2022 while performing my normal duties as 2P32, I was dispatched to the 7200-BLK of E Hunter Dr. Hitchcock, Galveston County, Texas in reference to a shooting.

SCENE SUMMARY:

7120 E Hunter Dr. Hitchcock, Texas is an orange in color elevated home with a porch located in the unincorporated area of Galveston County.

DETAILS:

While enroute dispatch advised the alleged victim, later identified as Patrick Cline W/M DOB: down HWY 6 and stopped in front of Big D Marine and Powersports. I arrived at Big D Marine and Powersports and made contact with Patrick.

| Patrick stated he was at 7120 E Hunter Dr. earlier in the day working for his boss, identified as Andrew Lehman |
|--|
| W/M DOB: Patrick stated he was working on Andrew's Jaguar and then left around 7pm when Andrew |
| left for groceries. Patrick stated Andrew then called him back later to come back and work on the car once again |
| around 10pm. Patrick advised Andrew had some friends come over and Andrew began rushing him to leave and |
| advised him he did not want him on the property anymore. Patrick stated he left around 1:30am |
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Patrick stated he arrived at Andrew's house and observed him to be sitting on his couch under the home. Patrick stated he tried to get Andrew's attention advising him he just wanted his beer and he would leave but Andrew continued to ignore him. Patrick stated he then walked onto the property which sparked an argument with Andrew. Patrick stated Andrew was telling him to leave but Patrick advised he just wanted to get his beer and go. Patrick stated he began walking up the stairs to go to the front door but was stopped by Andrew's girlfriend, identified as Monica Riley B/F DOB:

Monica Riley B/F DOB:

At the top of the stairs holding a shotgun. Patrick advised Monica was pointing the shotgun at him telling him to leave. Patrick stated he agreed to leave and began walking towards the gate. Patrick advised he then observed Andrew walk upstairs and take the shotgun away from Monica.

. Patrick then

stated Andrew shot one round from the shotgun but Patrick was unsure if he was shooting at him. Patrick stated he then began walking to his car and got inside. Patrick advised his car was facing HWY 6 with the passenger side facing the front of the house. Patrick stated he backed up some and then began driving towards HWY 6 when Andrew shot at him in the car striking the vehicle. Patrick stated he then drove down to the current location and

REPORTING OFFICER NARRATIVE

| | OCA | | | |
|-----------------------------------|----------------------|----------------------|--|--|
| Galveston County Sheriff's Office | 22-00004674 | | | |
| Victim | Offense | Date / Time Reported | | |
| CLINE, PATRICK ALEXANDER SR | ASSAULT - AGGRAVATED | Tue 11/01/2022 03:24 | | |

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waited for the police to arrive.

| Andrew stated he had not called or invited Patrick over at all today nor has he asked him to do some work for him. Andrew stated he had given Patrick multiple criminal trespass warnings and had told him to stay off his property. Andrew advised he had arrived home at approximately 4pm and found Patrick asleep on the couch outside and downstairs. Andrew stated he told him to leave and not come back. Andrew stated Patrick came back to the house at some point while he had company over and he had to make him leave once again. Andrew stated Patrick again arrived on scene approximately 40 minutes before we were called. Andrew stated Patrick began honking from outside of the gate asking to get his beer while Andrew sat on the couch. Andrew advised Patrick continued to ask for his beer as he walked up the stairs. Andrew stated Monica was at the top of the stairs with his shotgun. Andrew stated she pointed the shotgun at Patrick to prevent him from entering the home and advised him to leave the property. Andrew stated Patrick agreed to leave and began walking towards the front gate. Andrew stated he walked up the stairs to the porch and took the shotgun away from Monica. |
|---|
| Andrew stated he shot off a round from the shotgun aimed at the ground towards the field across the street from the front of his home. Andrew stated Patrick still didn't leave so he shot off another round in the same direction as the first to scare him off. Andrew stated Patrick finally came from behind the pole and got into his car, backed up and then left location. Andrew stated he never shot at Patrick while he was in the vehicle. |
| |
| I contacted oncall ADA A. Kao and advised her of the details of the case. ADA Kao advised to refer the case to the Criminal Investigation Division (CID) for further investigation. I then contacted oncall CID Detective Uvalde and advised her of the details of the case. Detective Uvalde later made location and the scene was released to her. |

REPORTING OFFICER NARRATIVE

OCA 22-00004674 Galveston County Sheriff's Office Victim Offense Date / Time Reported CLINE, PATRICK ALEXANDER SR ASSAULT - AGGRAVATED Tue 11/01/2022 03:24

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DISPOSITION:

ACTIVE/OPEN

Incident Report Suspect List

Galveston County Sheriff's Office

OCA: 22-00004674

| Name (Last, First, Middle) LEHMAN, ANDREW PETER Business Address | | | | | | | nown As | | | 712 HIT | Home Address 7120 E HUNTER HITCHCOCK, TX 77565-0000 713-903-9690 | | |
|---|----------|--------|----------|-----|---|--------|----------|------------|----------|-----------------|--|-----|--|
| DOB Age Race Sex Eth Hgt 44 W M N 603 | | | | | | | Hair BLN | Eye BLU | Skin FAR | | Driver's License / State | | |
| | | | | | | | | | | | | | |
| Reported Sus | pect Det | ail Sı | ıspect A | .ge | R | Race S | ex Eth | Heigh | nt | Weig | ht | SSN | |
| Reported Sus | Featur | | uspect A | | | Race S | ex Eth | Heigh Cole | | Weig Caliber | ht Dir of Travel Mode of Travel | | |
| | Featur | | | e | M | | | Cole | | | Dir of Travel | | |

| Galveston County Sheriff's Office | OCA: 2200004674 |
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| Investigator Signature | Supervisor Signature |

OCA: 2200004674 Galveston County Sheriff's Office THE INFORMATION BELOW IS CONFIDENTIAL - FOR USE BY AUTHORIZED PERSONNEL ONLY

Investigator Signature

Supervisor Signature

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Supervisor Signature

Investigator Signature

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Supervisor Signature

Investigator Signature

Galveston County Sheriff's Office

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OCA: 2200004674 Galveston County Sheriff's Office THE INFORMATION BELOW IS CONFIDENTIAL - FOR USE BY AUTHORIZED PERSONNEL ONLY

Supervisor Signature

Investigator Signature

Printed: 07/11/2023 15:20

Galveston County Sheriff's Office

OCA: 2200004674

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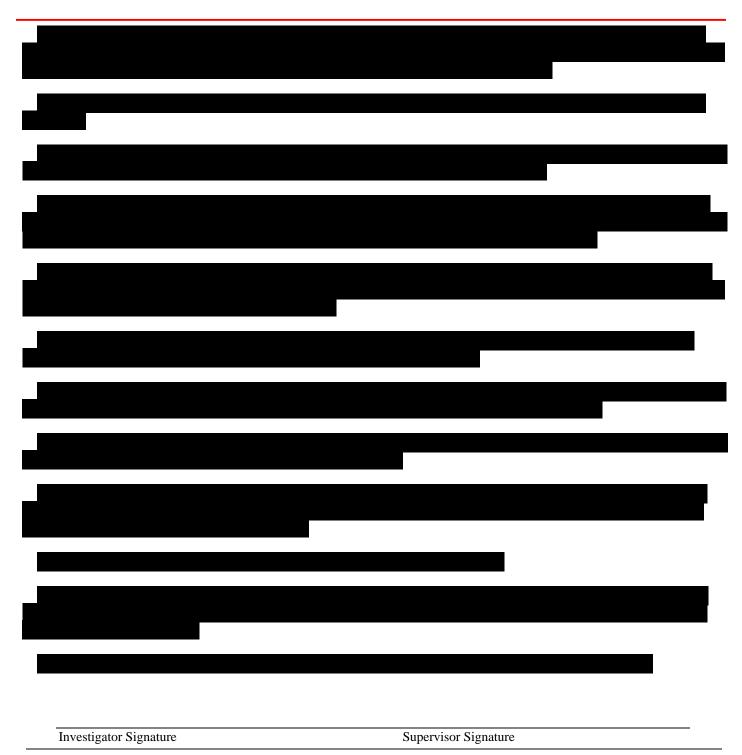
Case Status: *CLEARED BY ARREST Case Mng Status: CLEARED BY ARREST **Occurred:** 11/01/2022

Offense: ASSAULT - AGGRAVATED

Investigator: UVALLE, A. M. (7806) **Date / Time:** 11/09/2022 13:53:37, Wednesday

Supervisor: MILLER, K. B. (7838) Supervisor Review Date / Time: 11/10/2022 08:34:18, Thursday

Reference: Witness Statement **Contact:**



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OCA: 2200004674 Galveston County Sheriff's Office THE INFORMATION BELOW IS CONFIDENTIAL - FOR USE BY AUTHORIZED PERSONNEL ONLY

Supervisor Signature

Investigator Signature

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Supervisor Signature

Investigator Signature

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Supervisor Signature

Investigator Signature

Galveston County Sheriff's Office

COA: 2200004674

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Investigator Signature

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Investigator Signature

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Supervisor Signature

Investigator Signature

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Investigator Signature

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Investigator Signature

ARREST REPORT

| A | Agency Name | | ORI | | Date/Time Arrested | | | Case # | | | |
|---|--|------------|-----------------------------------|-------------------------------|-------------------------------|------------|----------------|------------------------|-------------|--|--|
| A I N N N N N N N N N N N N N N N N N N | Galveston County Sheriff's Office | 0840000 | | 11/01/2022 13:12 Tue | | | _ | 2200004674 | | | |
| Ço | Taken | | | Residen | Residence Tract | | | Arrest Number | | | |
| | , Photos Name (Last, First, Middle) | <u> </u> | D.O.B. | Age | Race | Sex | Pla | 469895 ice of Birth | Citizenship | | |
| | LEHMAN, ANDREW PETER | | | 44 | 1 | M | | | US | | |
| | Current Address | | Phone | | | ccupation | | Residence Status | | | |
| A R | 7120 E Hunter, , Hitchcock, TX 77565-0000 | | 7139039690 Agdress | | | | Resident Phone | | | | |
| A R R I N F O | Employer's Name | Audie | 155 | | | | | | | | |
| S F T O | Also Known As (Alias Names) | | | | Hgt | Wgt | Hair | Eyes | Skin Tone | | |
| Ē | Scars, Marks, Tattoos | Social Sec | curity # | | 6'03 OLN and Stat | 255 | BIn Mis | Blu sc. # and Type | Fair | | |
| - | , | X | | | | | | | | | |
| | Nearest Relative Name | Addre | ess | | | | ! | Phone | | | |
| | KAnnad Transf Warran | | | Disease | - f. A t | | | | | | |
| | If Armed, Type of Weapon UNARMED, 01 Type of Arrest TAKEN INTO CUS | STODY | | 1 | of Arrest 2 0 E HUN | ITER, HIT | гснсос | K | | | |
| A R I R N E F S | Charge #1 Typ Agg Assault W/deadly Weapon | | | | Summons # | | atute # | | Warr. Date | | |
| | / Fel | | 13A | | | | | 2.02(A)(2) | 11/01/2022 | | |
| | Charge #2 Typ | oe Cour | nts IBR Code | e Warrant/Summons # Statute # | | | | Warr. Date | | | |
| Т | Charge #3 Typ | oe Cour | nts IBR Code | Warrant/Summons # Statute # | | | | Warr. Date | | | |
| | | | | | | | | | | | |
| | VYR Make | Model | | | | Style | | | | | |
| VΝ | Color Plate #/State/Plate Year | | VIN | | | | | | | | |
| V E H O | | | | | | | | | | | |
| | Vehicle | | | | | | | | | | |
| ç | Date/Time Confined / Place Confined | | | | | Committin | ig Magistrate | | | | |
| C O N B F O | Type Bond Bond Amount | Trial | Date Time | C | ourt Of | • | Ci | ity | | | |
| INI | Arresting Officer Name/ID #/Bureau | | | | | | | | | | |
| N D E D | Assisting Officer Name/ID #/Bureau / | Releas | eleased By (Name/Department/ID #) | | | | Da | Date/Time Released | | | |
| Status | ROWLANDS, S. CID MAJ CLE | | | | | | | | | | |
| Codes | 1 = None 2 = Burned 3 \(\frac{1}{2} \) Counterfeit / Forged 4 = Damaged 5 = Recovered 6 = Seized 7 = Stolen 8 = Unknown/Lost Code Status Quantity Type Measure Suspected Type Suspe | | | | | | | | | | |
| | Code Status Quantity/ Type Measure | | Suspected Type | | | | | | | | |
| пΑ | | | | | | | | | | | |
| D A R AR U T E | | | | | | | | | | | |
| G S S T | | | | | | | | | | | |
| ' | | | | | | | | | | | |
| | | | | | | | | | | | |
| | Name / | Addr | ess | | | | | Phone | | | |
| Other Name | | Addr | | | | | | Phone | | | |
| | | | | | | | | | | | |
| N | On November 1, 2022, at approximately 5:16 a.m. I, Detective A. Uvalle was contacted by Unit #2P32, Deputy Alvarez in reference to a shooting that occured at 7120 E Hunter, Hitchcock, Texas. | | | | | | | | | | |
| A R | See supplemental reports for further documentation. | | | | | | | | | | |
| N R R A T | | | | | | | | | | | |
| i V E | The offender identified as Andrew Peter Lehman W/M DOB: was arrested on scene for | | | | | | | | | | |
| E | ** Continued * | | | | | | | | | | |
| s Ţ/ | Arresting Officer Signature/ID #/Bureau UVALLE, A. M. (CID, MAJ) (7806) CLE | | | | | | | | | | |
| S T A T | Case Status Arrestee Signature | | | | | | | | | | |
| /s | r_ar1ibr Printed By: TAMAYOJ | | | | | | | | | | |
| / | Print | eu By: 1 | AIVIA YUJ, TAN | MAYUJ | | | | | | | |

ARREST REPORT (Additional Narrative)

| Agency Name | ORI | Date/Time Arrested | Case # | |
|-----------------------------------|---------|--------------------|---------------|--|
| Galveston County Sheriff`s Office | 0840000 | 11/01/2022 13:12 | 2200004674 | |
| Arrestee Name | | | Arrest Number | |
| LEHMAN, ANDREW PETER | | | 469895 | |

Aggravated Assault with Deadly Weapon, 2nd Degree Felony, with set bond of \$80,000.00. and transported to the Galveston County Jail.

Arrest Report (Additional Narrative)

