



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 29, 1995

Mr. Norbert J. Hart
Assistant City Attorney
City of Corpus Christi
P.O. Box 9277
Corpus Christi, Texas 78469-9277

OR95-1030 -

Dear Mr. Hart:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 35930.

The Corpus Christi Police Department (the "department") received an open records request for "[a]ny and all tape recordings and/or written transcripts of conversations between police negotiators and Yolanda Saldivar that occurred during the standoff at the Days Inn Hotel, 901 Navigation Blvd., on March 31, 1995." You contend the requested tape recordings¹ may be withheld from the public pursuant to section 552.108 of the Government Code.

Section 552.108, known as the "law enforcement" exception, excepts from required public disclosure:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime [and;]

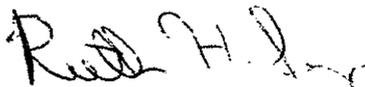
(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement.

¹You state that the department does not possess any transcripts of the recordings.

Evidence obtained at the scene of a crime is presumptively excepted by section 552.108 during the pendency of an investigation or prosecution.² Attorney General Opinion MW-446 (1982). However, once criminal proceedings have been concluded, so that it is no longer an active investigatory file, the custodian of the records must show that their release "will unduly interfere with law enforcement and crime prevention." *Id.* at 2. Because the criminal prosecution is currently pending in connection with this matter, the department may withhold the requested tape recordings pursuant to section 552.108 until such time that the recordings are entered into evidence during the criminal trial or until the prosecution of this matter has concluded.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/RWP/rho

Ref.: ID# 35930

Enclosures: Tape recordings

cc: Mr. Eric Brown
Staff Writer
Corpus Christi Caller-Times
P.O. Box 9136
Corpus Christi, Texas 78469
(w/o enclosures)

²Because the department may withhold the tape recordings at this time under section 552.108, we need not address your other arguments against public disclosure.