



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 5, 2009

Ms. Yvette Aguilar  
Assistant City Attorney  
City of Corpus Christi  
P.O. Box 9277  
Corpus Christi, Texas 78469-9277

OR2009-07722

Dear Ms. Aguilar:

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# 345224.

The Corpus Christi Police Department (the "department") received a request for the following information related to a speeding violation: (1) the repair records, manufacturer's manual, calibrations log, a copy of the department's FCC license and related information for a radar unit; (2) the arrest records of the police officer involved for the three months preceding the incident and his log for the day of the incident; (3) copies of the original citation; (4) a speedometer calibration certificate; and (5) maintenance and related records for the patrol vehicle involved. You state that the department does not have the requested repair records and calibrations log for the radar unit in question or information responsive to category four of the request. We note that the Act does not require a governmental body to release information that did not exist when it received a request, create responsive information, or obtain information that is not held by the governmental body or on its behalf. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W. 2d 266 (Tex. Civ. App. – San Antonio 1978, writ dismissed). You claim that the submitted information is excepted from disclosure under sections 552.103 and 552.108 of the Government Code.<sup>1</sup> You state, and provide documentation showing, that you have notified a third party whose proprietary interests may be implicated by release of the requested information. *See Gov't Code* § 552.305. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note that some of the submitted information, which we have marked, is not responsive to the request as it does not fall within the dates specified by the requestor. The department need not release non-responsive information in response to this request, and this

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<sup>1</sup>You inform us that the department no longer asserts section 552.101 of the Government Code.

ruling will not address that information. *See Bustamante*, 562 S.W. 2d 266 (Tex. Civ. App. – San Antonio 1978, writ dismissed).

Section 552.108(a)(1) 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: (1) 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* Gov’t Code §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the submitted information relates to an active criminal prosecution in the city’s municipal court. Based upon this representation and our review, we conclude that the release of the submitted information 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), *writ refused n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). Thus, the department may withhold the submitted information pursuant to section 552.108(a)(1) of the Government Code.<sup>2</sup>

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](http://www.oag.state.tx.us/open/index_orl.php), 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 at (512) 475-2497.

Sincerely,



Pamela Wissemann  
Assistant Attorney General  
Open Records Division

PFW/jb

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<sup>2</sup>As our ruling is dispositive, we do not address your other arguments against disclosure.

Ref: ID# 345224

Enc. Submitted documents

c: Requestor  
(w/o enclosures)