



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 9, 2009

Ms. Yvette Aguilar
Assistant City Attorney
City of Corpus Christi
Police Legal Advisor
321 John Sartain
Corpus Christi, Texas 78401

OR2009-07888

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# 345477.

The City of Corpus Christi (the "city") received a request for all audio or video recordings and specified police vehicle equipment information related to a specified incident involving a named individual, as well as specified video recordings from the in-car cameras of the police vehicles involved in the specified incident. We understand the city has provided some of the requested information to the requestor. You claim the submitted audio and video recordings, dispatch records, vehicle log, and email are excepted from disclosure under sections 552.108, 552.117, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, you state specified portions of the submitted video recordings are not responsive to the request. This decision does not address the public availability of the non-responsive information, and that information need not be released.

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 . . . release of the information would interfere with the detection, investigation, or prosecution of crime." Gov't Code § 552.108(a)(1). 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 the submitted dispatch records, audio recordings, and vehicle log you have marked pertain to a pending criminal investigation. Based on this representation and our review, we conclude the release of this 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 ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). Therefore, the information you have marked may be withheld under section 552.108(a)(1) of the Government Code.¹

Section 552.108(a)(2) 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 it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]” Gov’t Code § 552.108(a)(2). Section 552.108(a)(2) is applicable only if the information at issue relates to a concluded criminal case that did not result in a conviction or a deferred adjudication. A governmental body that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is applicable to the information the governmental body seeks to withhold. *See id.* § 552.301(e)(1)(A); *Pruitt*, 551 S.W.2d 706. You state the responsive video recordings you have indicated pertain to criminal investigations that did not result in convictions or deferred adjudication. Therefore, the responsive video recordings may be withheld under section 552.108(a)(2) of the Government Code.²

Section 552.108(b)(1) of the Government Code excepts from disclosure the internal records and notations of law enforcement agencies and prosecutors when their release would interfere with law enforcement and crime prevention. Gov’t Code § 552.108(b)(1); *see also* Open Records Decision No. 531 at 2 (1989) (quoting *Pruitt*, 551 S.W.2d 710). Section 552.108(b)(1) is intended to protect “information which, if released, would permit private citizens to anticipate weaknesses in a police department, avoid detection, jeopardize officer safety, and generally undermine police efforts to effectuate the laws of this State.” *See City of Ft. Worth v. Cornyn*, 86 S.W.3d 320 (Tex. App.—Austin 2002, no writ). To demonstrate the applicability of section 552.108, a governmental body must meet its burden of explaining how and why release of the requested information would interfere with law enforcement and crime prevention. Open Records Decision No. 562 at 10 (1990). This office has concluded section 552.108(b) excepts from public disclosure information relating

¹As our ruling for this information is dispositive, we need not address your remaining arguments against disclosure for portions of this information.

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to the security or operation of a law enforcement agency. *See, e.g.*, Open Records Decision Nos. 531 (release of detailed use of force guidelines would unduly interfere with law enforcement), 456 at 2 (1987) (release of forms containing information regarding when and where off-duty police officers will be working would unduly interfere with law enforcement), 252 (1980) (section 552.108 is designed to protect investigative techniques and procedures used in law enforcement), 143 (1976) (disclosure of specific operations or specialized equipment directly related to investigation or detection of crime may be excepted).

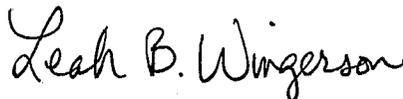
You claim a portion of the submitted e-mail is protected under section 552.108(b)(1). You assert releasing the portion of the e-mail you have marked, which pertains to specialized police vehicle equipment, would permit potential criminals and other individuals to avoid detection and apprehension by law enforcement officers. You also argue releasing the information would jeopardize police officer safety. Based on your arguments and our review, we agree the marked portion of the e-mail may be withheld under section 552.108(b)(1) of the Government Code.

In summary, the city may withhold the information you have marked under sections 552.108(a)(1), 552.108(a)(2), and 552.108(b)(1) of the Government Code. The remaining information must be released.

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, 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,



Leah B. Wingerson
Assistant Attorney General
Open Records Division

LBW/dls

Ref: ID# 345477

Enc. Submitted documents

c: Requestor
(w/o enclosures)