



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 28, 2009

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

OR2009-10420

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# 350438.

The Corpus Christi Police Department (the "department") received a request for all recordings pertaining to a specified incident, as well as the unit numbers of all vehicles involved in the chase.¹ You state you have released basic information to the requestor.² You claim that the submitted information is excepted from disclosure under sections 552.108 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information. We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

¹We note that the city received clarification regarding this request. *See* Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information).

²We assume that the basic information you have released is the basic information referred to under section 552.108(c) of the Government Code. Gov't Code § 552.108(c) (basic information about an arrested person, and arrest, or a crime is not excepted under section 552.108); *see also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information).

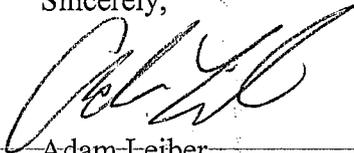
Initially, we address the requestor's contention that the department failed to follow its procedural obligations under section 552.301(b) of the Government Code. Section 552.301 prescribes the procedures that a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. *Id.* § 552.301. Section 552.301(b) requires that a governmental body ask for a decision from this office and state which exceptions apply to the requested information by the tenth business day after receiving the request. *Id.* § 552.301(b). The department states, and the submitted documents reflect, that the request was received by the department on May 11, 2009. We note that this office does not count the date the request was received or holidays, as business days for the purpose of calculating a governmental body's deadlines under the Act. We further note that state offices were closed for business on May 25, 2009 in observance of Memorial Day. Accordingly, the tenth business day after the receipt of the instant request was May 26, 2009. The department's request for a ruling bears a postmark date of May 26, 2009. *See id.* § 552.308 (describing rules for calculating submission dates of documents sent via first class United States mail, common or contract carrier, or interagency mail). Thus, we find the department complied with the ten-business-day deadline. Therefore, we will consider the department's arguments under section 552.108 and 552.130 of the Government Code.

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." 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), 552.301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). The department states that the submitted information relates to a pending criminal investigation. However, the requestor indicates there is no ongoing criminal investigation pertaining to the information at issue. Whether or not the requested information relates to a pending criminal investigation is a question of fact. This office cannot resolve factual disputes in the opinion process. *See Open Records Decision Nos.* 592 at 2 (1991), 552 at 4 (1990), 435 at 4 (1986). Where fact issues are not resolvable as a matter of law, we must rely on the facts alleged to us by the governmental body requesting our decision, or upon those facts that are discernible from the documents submitted for our inspection. *See Open Records Decision No.* 552 at 4 (1990). Thus, based on the department's representation, we accept the department's assertion that the submitted information relates to a pending criminal investigation. Accordingly, we conclude that 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. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e.*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). Therefore, with the exception of basic information, which the department states they have released, the department may withhold the submitted information under section 552.108(a)(1) of the Government Code. As our ruling is dispositive, we need not address the department's remaining argument against disclosure.

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,



Adam Leiber
Assistant Attorney General
Open Records Division

ACL/eeg

Ref: ID# 350438

Enc. Submitted documents

c: Requestor
(w/o enclosures)