



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 26, 1996

Mr. G.M. Cox
Chief of Police
Corsicana Police
200 North 12th Street
Corsicana, Texas 75110

OR96-0254

Dear Mr. Cox:

You have asked this office to determine if certain information is subject to required public disclosure under chapter 552 of the Government Code.¹ Your request was assigned ID #35770.

On August 25, 1995, the City of Corsicana (the "city") received a written request for arrest and other reports involving a specific murder. You did not ask this office for a ruling concerning that written request until September 11, 1995. However, you contend that the requestor verbally modified the written request, to indicate she was seeking to know the status of the murder investigation. The city was willing to supply that information to the requestor. It is our understanding that the requestor is again seeking the arrest and other reports.

Section 552.301(a) provides:

¹We note that the open records laws were substantially amended by the Seventy-fourth Legislature. Act of May 29, 1995, 74th Leg., R.S., ch. 1035, 1995 Tex. Sess. Law Serv. 5127 (Vernon) (codified as amendments to Gov't Code ch. 552). The amendments to chapter 552 "affecting the availability of information, the inspection of information, or the copying of information, including the costs for copying information, apply only to a request for information that is received by a governmental body on or after September 1, 1995." *Id.* § 26(a), 1995 Tex. Sess. Law Serv. at 5142 (Vernon). A request for information that is received by a governmental body prior to September 1, 1995, is governed by the law in effect at the time the request is made. *Id.*

(a) A governmental body that receives a written request for information that it wishes to withhold from public disclosure and that it considers to be within one of the exceptions under [chapter 552] must ask for a decision from the attorney general about whether the information is within that exception if there has not been a previous determination about whether the information falls within one of the exceptions. The governmental body must ask for the attorney general's decision and state the exceptions that apply within a reasonable time but not later than the 10th calendar day after the date of receiving the written request.

Failure to abide by the provisions of section 552.301 results in the presumption that information is public. Gov't Code § 552.302.

You contend, however, that the ten day time period should be tolled because the city was working with the requestor to informally resolve the request for information, and that the city thus timely submitted its request after it became apparent the requestor was seeking actual arrest and investigation reports about the murder rather than the investigation status of the case.

The ten day deadline is tolled during the period that a requestor and a governmental body attempt to resolve access to the records informally, but only if there is actually legitimate confusion as to the scope and nature of the documents requested. Open Records Decision No. 333 (1982). Based upon your representation that this was the case, we agree that this request was timely submitted.

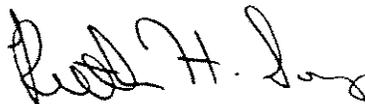
You submitted to this office for review the police offense report, arrest record, offense report supplements, and various statements. You contend this information is excepted from disclosure pursuant to section 552.108 of the Government Code. When applying section 552.108, this office distinguishes between cases that are still under active investigation or prosecution and those that are closed. Open Records Decision No. 611 (1992) at 2. In cases that are still under active investigation, section 552.108 excepts from disclosure all information except that generally found on the first page of the offense report. *Houston Chronicle Publishing 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, 586 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976); see also Open Records Decision No. 127 (1976). A case may be closed due to a conviction or acquittal, or by administrative decision. Open Records Decision No. 372 (1983) at 4.

You state that the case is still active and that prosecution is pending. Thus, you may withhold from disclosure all of the information at issue except for the type of information that is generally found on the first page of an offense report. We have marked this information. Also, we have enclosed a list of the type of information generally found

on the first page of an offense report. The other information at issue may be withheld from disclosure pursuant to section 552.108.

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 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/ch

Ref.: ID# 35770

Enclosures: Submitted documents
552.108 Summary

cc: Ms. Karen Bivins
309 N. Senter
Kerens, Texas 75144
(w/o enclosures)