



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 10, 1996

Mr. Jerry Bruce Cain
Assistant City Attorney
City of Laredo
P.O. Box 579
Laredo, Texas 78042-0579

OR96-0524

Dear Mr. Cain:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 26431.

The City of Laredo (the "city") received two requests for a tape recording of 911 calls made to the city's police department. You indicate that the tape at issue is a recording of calls which may constitute "harassment and abuse of 911." We assume that you are referring to Texas Penal Code section 42.061, which makes it a criminal offense to make silent or abusive calls to a 911 system. You contend that section 552.108 of the Government Code excepts the tape from required public disclosure.

When applying section 552.108, this office distinguishes between cases that are still under active investigation or prosecution and those that are closed. If a case is still under active investigation or prosecution, section 552.108 generally excepts from disclosure all information except that found on the first page of an offense report. Open Records Decision No. 611 (1992) at 3; *see* 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. Information in a closed file may be excepted under section 552.108 only if its release would interfere with law enforcement. Open Records Decision No. 287 (1981) at 1. Such interference must be apparent on the face of the information or reasonably explained by the agency claiming the exception. *Id.* This office determines on a case-by-case basis whether information is excepted under section 552.108. Open Records Decision No. 434 (1986) at 2.

The information provided to this office indicates that the case is under active investigation or prosecution. Thus, the portion of the submitted tape containing the recorded 911 calls is information that may be withheld from public disclosure under

section 552.108 until the case is closed due to conviction or acquittal, or by administrative decision.

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# 26431

Enclosures: Submitted tape

cc: Chris Regnier
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Anna and Shea Streets
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(w/o enclosures)

Mr. Robert Garcia
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