



September 4, 2001

Mr. Stephen R. Zastrow
Legal Advisor
Corpus Christi Police Department
321 John Sartain
Corpus Christi, Texas 78401

OR2001-3919

Dear Mr. Zastrow:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 151462.

The City of Corpus Christi Police Department (the "department") received a request for information involving four named individuals.¹ You inform us that you have made some of the requested information available to the requestor as basic information concerning an arrest. *See* Gov't Code § 552.108(c); *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). You claim that portions of the remaining requested information are excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

We first address procedural matters. You have sent a letter to the requestor, a copy of which you enclose as Exhibit B, notifying the requestor that the department was unable to locate responsive records regarding Jose Orlando Sanchez Ortiz. Chapter 552 of the Government Code does not require a governmental body to make available information which did not exist at the time the request was received. Open Records Decision No. 362 (1983); *see* Open Records Decision No. 452 (1986) (document not within chapter 552's purview if it does not exist when governmental body receives a request for it). Thus, the department need not comply with this portion of the request.

¹Regarding one named individual, the requestor seeks any documents from the department "regarding his apprehension or his demise." Regarding three other named individuals, the requestor seeks "any and all documentation which your agency has with regard to the other gentlemen and their particular cases whether also a death, injury, beating et cetera [sic]."

In that same letter, you asked the requestor for clarification of the request. See Gov't Code § 552.222. You informed the requestor that the department had records involving twelve different individuals named Christopher Sanchez, and suggested that the requestor supply a date of birth, an address, or other qualifier. Although you have not submitted to this office records responsive to the request for records regarding Christopher Sanchez, the requestor has apparently not responded with clarification of the request. It is well-established that a governmental body may not disregard a request for records made pursuant to the Public Information Act merely because a requestor does not specify the exact documents desired. A governmental body must make a good faith effort to relate a request to information held by it. Open Records Decision No. 561 at 8-9 (1990), 87 (1975). Section 552.222(b) of the Government Code, however, provides that if a governmental body is unable to determine the nature of the records being sought, it may ask the requestor to clarify the request so that the desired records may be identified. This office has previously held that a request "must sufficiently identify the information requested and an agency may ask for a clarification if it cannot reasonably understand a particular request." Open Records Decision Nos. 663 at 4 (1999), 23 at 1-2 (1974); see also Open Records Decision No. 304 (1982) (governmental body sought clarification as to particular documents sought when requestor asked for all documents relating to particular issue). Similarly, section 552.222(b) also provides that "[i]f a large amount of information has been requested, the governmental body may discuss with the requestor how the scope of a request might be narrowed" However, section 552.222(b) does not stand for the proposition that a request may be denied merely because it seeks a broad range of documents. Moreover, in this case, the department cannot require the requestor to supply information that identifies Christopher Sanchez before it responds to the request. If the requestor chooses not to narrow his request, the governmental body must release all responsive information if no exception to disclosure applies. Until such time as the requestor responds to the request for clarification, the ten-day deadline is tolled and will resume upon the department's receipt of the requestor's response. See Open Records Decision No. 663.

Section 552.108(a)(2) excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. Based on the information you provided, we understand you to assert that the remaining information pertains to cases that concluded in a result other than conviction or deferred adjudication. Therefore, we agree that section 552.108(a)(2) is applicable.

However, section 552.108 is inapplicable to basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). We believe such basic information refers to the information held to be public in *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, 536 S.W.2d 559 (Tex. 1976). Thus, with the exception of the basic front page offense and arrest information, you may withhold the requested information from disclosure based on section 552.108(a)(2). We note that you have the discretion to release all or part of the remaining information that is not otherwise confidential by law. Gov't Code § 552.007.²

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

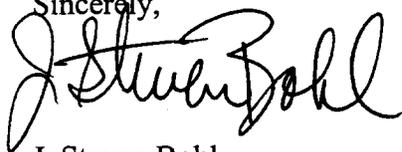
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

²Because section 552.108(a)(2) is dispositive in this case, we do not address your section 552.101 claim.

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Steven Bohl". The signature is fluid and cursive, with the first letters of each word being capitalized and prominent.

J. Steven Bohl
Assistant Attorney General
Open Records Division

JSB/sdk

Ref: ID# 151462

Enc: Submitted documents

c: Mr. Michael C. F. White
2554 Lincoln Boulevard, #209
Marina Del Rey, California 90291
(w/o enclosures)