ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 22, 2005

Mr. Randy A. Stoneroad
Police Legal Advisor
City of Corpus Christi
321 John Sartain
Corpus Christi, Texas 78401

OR2005-11555

Dear Mr. Stoneroad:

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# 239523.

The Corpus Christi Police Department (the "department") received a request for the video tape, audio recordings, radio transmission transcripts, and computerized police response records regarding a specific incident. You state that you have released the audio recordings, radio transmissions, and 9-1-1 call data[1], but claim that the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information deemed confidential by other statutes. You assert that the requested Automatic Vehicle Locator ("AVL") records are confidential under the Texas Homeland Security Act, specifically sections 418.176 and 418.181 of the Government Code. Section 418.176 provides in part:

> (a) Information is confidential if the information is collected, assembled, or maintained by or for a governmental entity for the purpose of preventing,

[1]The department informs us that the requestor has agreed to accept 9-1-1 call data with the name, home address, and telephone number of the reporting party redacted.

> detecting, responding to, or investigating an act of terrorism or related criminal activity and:
>
> > (1) relates to staffing requirements of an emergency response provider, including law enforcement agency, a fire-fighting agency, or an emergency services agency;
> >
> > (2) relates to a tactical plan of the provider; or
> >
> > (3) consists of a list or compilation of pager or telephone numbers, including mobile and cellular telephone numbers, of the provider.

Gov't Code § 418.176(a).

You state that the AVL records are "information collected, assembled, and maintained by the city for the purpose of preventing, detecting, responding to, or investigating an act of terrorism or related criminal activity." You inform us that "AVL is a technology requirement of the United States Department of Homeland Security." Further, you state that the requested AVL records relate to the staffing requirements of local area emergency response providers, including the city police department. You state that

> the AVL records at issue are utilized, for police safety and accountability. The goal is to know where every police officer is located and to have the ability to dispatch emergency backup to said police officer during dangerous and life-threatening situations. Also all police vehicles and equipment need to be located and tracked through an AVL.

You assert that an AVL record "locates the staff of each provider in real-time [and] shows the patterns of deployment and methods of response, response time, reaction and location." Having considered your representations and reviewed the submitted information, we conclude that the AVL records are confidential under section 418.176 of the Government Code and must be withheld under section 552.101 of the Government Code. As our ruling on this issue is dispositive, we need not address your remaining argument.

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).

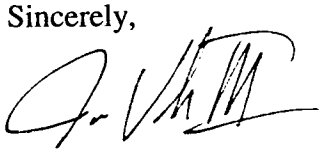
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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 Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

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 Office of the Attorney General 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,



José Vela III
Assistant Attorney General
Open Records Division

JV/krl

Ref: ID# 239523

Enc. Submitted documents

c: Nancy Martinez
Corpus Christi Caller Times
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(w/o enclosures)