



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 10, 1997

Mr. Kevin Pagan
Assistant City Attorney
City of McAllen
P.O. Box 220
McAllen, Texas 78505-0220

OR97-0764

Dear Mr. Pagan:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your requests were assigned ID#s 105401 and 105065.

The City of McAllen (the "city") received two requests for information relating to a fire which occurred on January 20, 1997 in a warehouse at 17th Street and Business Highway 83. You assert that the requested information is excepted from disclosure pursuant to section 552.108 of the Government Code. We have considered your arguments and have reviewed the information submitted.

Section 552.108 excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime," and "[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution." Gov't Code § 552.108; *see Holmes v. Morales*, 924 S.W.2d 920 (Tex. 1996). The records submitted to this office for review appear to be records of the McAllen Fire Department. The Arson Investigation Division of a city fire department is a "law-enforcement agency" within the meaning of section 552.108. *See* Open Records Decision Nos. 127 (1976) at 8-9, 371 (1983) at 1. Assuming that the records submitted to this office are records of the Arson Investigation Division of the City of McAllen Fire Department, the information requested falls within the purview of section 552.108.

We note, however, that information normally found on the front page of an offense report is generally considered public. *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); Open Records Decision No. 127 (1976). Several decisions of this office have considered the application of section 552.108 to records concerning a specific fire. *See* Open Records Decision Nos. 371 (1983), 134 (1976), 127 (1976). Those decisions have determined that the following information must be released in order to comply with the *Houston Chronicle* decision:

time of the occurrence, the fire department's response, the location of the fire, how and by whom it was reported, a description of the building, estimates of the value of the building and its contents, whether and to what amount property is insured and by whom, description of any injuries or deaths that occurred with the name and age of the victim, nature of injury, conveyance and hospital, and date and time of death, as applicable, a detailed description of the cause and origin of the fire.

See Open Records Decision No. 127 (1976). The following information is also public:

the name of the investigator(s), the name of the person requesting the investigation, the date of such request, the probable cause of the fire, the owner, occupant, location of the loss or incident, date and time of incident, weather conditions, structural information, name and address of insuring company, amount of insurance involved, name of agent, adjuster, extent of damage, whether legal action was taken, status of the case, the dates of the investigation, the construction and condition of the property damaged.

See Open Records Decision No. 134 (1976). On the other hand, section 552.108 applies to the following information:

the investigator's opinion and conclusions concerning the names of suspects, the possible motive for an incendiary fire, evidence found, names of witnesses and summaries of their statements, and information concerning the description, background, and possible location of any suspect.

We therefore conclude that, with the exception of the public information delineated above, Government Code section 552.108 excepts the requested information from required public disclosure. On the other hand, you may choose to release all or part of the information that is not otherwise confidential by law. Gov't Code § 552.007.

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,



Michael A. Pearle
Assistant Attorney General
Open Records Division

MAP/ch

Ref.: ID# 105065

Enclosures: Submitted documents

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