



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 27, 1997

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

OR97-1223

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 request was assigned ID# 106774.

The City of McAllen (the "city") received a request for a specific offense report. You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and have reviewed the submitted information.

Initially, we observe that you have indicated to the requestor that former section 51.14(d) of the Family Code may be applicable to the information at issue because it pertains to juvenile conduct. However, section 51.14(d) of the Family Code was repealed by the Seventy-fourth legislature, Act of May 27, 1995, 74th Leg., R.S., ch. 262, § 100, 1995 Tex. Gen. Laws 2517, 2590 (current version at Family Code §§ 58.007 et seq.). Records of juvenile offenders concerning conduct occurring on or after January 1, 1996, that are held by law enforcement agencies are not made confidential under section 58.007 of the Family Code.¹ Open Records Decision No. 644 (1996). It appears that the requested offense report, which involves a juvenile suspect, concerns conduct that occurred after January 1, 1996. These records, therefore, are not made confidential by law.

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,"

¹We note, however, that section 58.007(c) of the Family Code, as well as its predecessor statute, section 51.14(c), requires law enforcement agencies to keep juvenile and adult records separate.

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). Because the document at issue comes within the purview of section 552.108, we conclude that most of the requested information may be withheld under this section.

Although you indicate that you have released the first page of the offense report, we note that you must also release the type of information that is considered to be front page offense report information even if this information is not actually located on the front page of the offense report.² Section 552.108 provides that you may withhold the remaining information from disclosure, although you may choose to release all or part of the information at issue 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 on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Vickie Prehoditch
Assistant Attorney General
Open Records Division

VDP/glg

Ref.: ID# 106774

Enclosures: Submitted documents

cc: Maria Cristina Macias
R.R. 7, Box 2172
Edinburg, Texas 78539-9807
(w/o enclosures)

²The content of the information determines whether it must be released in compliance with *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), not its literal location on the first page of an offense report. Open Records Decision No. 127 (1976) contains a summary of the types of information deemed public by *Houston Chronicle*.