



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 21, 1997

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

OR97-1654

Dear Mr. Pagan:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 107587.

The City of McAllen Police Department (the "city"), which your office represents, received a request for information relating to a particular incident.¹ You state that, "if appropriate, the City has already released the 'front page' offense report information." See Open Records Decision No. 127 (1976). However, you claim that the remaining information, not subject to disclosure as front page material, is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and have reviewed the documents at issue.

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 requested information apparently relates to a pending investigation or prosecution of criminal allegations. Since the records at issue come within the purview of section 552.108, we conclude that most of the information may be withheld under this section.

¹The request form indicates that the requestor seeks information pertaining to offense report number 97-014175 and complaint number 97-130699. In response to the request, you submitted to this office for review a copy of offense report 97-014175, which you contend is responsive to the request. We assume the city released to the requestor the requested complaint.

Information normally found on the front page of an offense report, including a detailed description of the offense, is generally considered public.² *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); Open Records Decision No. 127 (1976). Thus, the city must release the types of information that are considered to be front page offense report information, even if this information is not actually located on the front page of the report. Therefore, except for front page offense report information, section 552.108 of the Government Code excepts the requested record from required public disclosure. Although section 552.108 authorizes the city to withhold the remaining information from disclosure, the city may choose to release all or part of the information at issue that is not otherwise confidential by law. See Gov't Code § 552.007.

We are resolving this matter with this 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 may 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,



Sam Haddad
Assistant Attorney General
Open Records Division

SH/rho

Ref.: ID# 107587

Enclosures: Submitted documents

cc: Ms. Esther Gonzalez
110 W. 13th Street
Mission, Texas 78572
(w/o enclosures)

²The content of the information determines whether it must be released in compliance with *Houston Chronicle*, 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*.