



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 23, 1997

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

OR97-2365

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# 109807.

The City of McAllen Police Department (the "city"), which your office represents, received a request for two specified offense reports, identified by numbers 97-15678 and 91-012984. You have submitted information which you contend is responsive to the request. You state that "if appropriate, the City has already released the 'front page' offense report information."¹ However, you assert that the remaining information may be withheld from disclosure pursuant to section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

We note that the Seventy-Fifth Legislature amended section 552.108 of the Government Code to read as follows:

- (a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is exempted from the requirements of Section 552.021 if:

¹As you have noted, basic information normally found on the front page of an offense report is generally considered public. 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); Open Records Decision No. 127 (1976). The 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*.

(1) release of the information would interfere with the detection, investigation, or prosecution of crime;

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication; or

(3) it is information that:

(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or

(B) reflects the mental impressions or legal reasoning of an attorney representing the state.

(b) An 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 is excepted from the requirements of Section 552.021 if:

(1) release of the internal record or notation would interfere with law enforcement or prosecution;

(2) the internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication; or

(3) the internal record or notation:

(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or

(B) reflects the mental impressions or legal reasoning of an attorney representing the state.

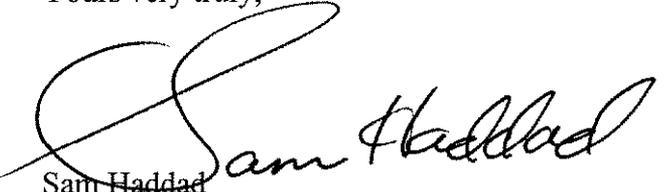
(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

See Gov't Code § 552.108. After reviewing the submitted records, we believe that the material at issue is information of a law enforcement agency that deals with the investigation and prosecution of crime. Specifically, we note that the offense report filed in 1997 may be

withheld from required public disclosure pursuant to section 552.108(a)(1), while the 1991 offense report, which apparently "did not result in conviction or deferred adjudication," may be withheld pursuant to section 552.108(a)(2). Although you state that you have released front page offense report information to the requestor, we note that you must also provide the requestor with a detailed description of the offense pursuant to *Houston Chronicle*. See Gov't Code § 552.108(c); Open Records Decision No. 127 (1976). We, therefore, conclude that section 552.108(a) excepts the remaining records from required public 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 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,

A handwritten signature in black ink that reads "Sam Haddad". The signature is written in a cursive style with a large, looping initial "S".

Sam Haddad
Assistant Attorney General
Open Records Division

SH/rho

Ref.: ID# 109807

Enclosures: Submitted documents

cc: Ms. Zonia T. Ayala
2308 N. 36th Street
McAllen, Texas 78501
(w/o enclosures)