



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 24, 1997

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

OR97-2577

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# 110565.

The City of McAllen (the "city") received a request for "phone harrassment [sic] charges" and "any case pertaining to [the requestor] for court case." 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 reviewed the submitted information.

As amended, Section 552.108 provides:

(a) [i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of 552.021 if: (1) release of the information would interfere with the detection, investigation or prosecution of crime; [or] (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 [public disclosure] if: (1) release of the internal record or notation would interfere with law enforcement or prosecution; [or] (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.

See Act of June 1, 1997, H.B. 951, § 1, 75th Leg., R.S. (to be codified at Gov't Code § 552.108).

You have not explained how release of the requested information would interfere with the detection, investigation, or prosecution of crime or with law enforcement or prosecution. Nor have you demonstrated that any other provision of section 552.108 is applicable to the requested records. However, it appears from the Records Request of Information Form, which you submitted to this office, that case number 96-28233 is still pending. Thus, section 552.108(a)(1) of the Government Code is applicable to case number 96-28233. *See Open Records Decision No. 216 (1978) at 3 (release of information during pending criminal case would interfere with prosecution of crime and law enforcement interests).*

We note, however, that "basic information about an arrested person, an arrest, or a crime" is not excepted from required public disclosure. Gov't Code § 552.108(c). Basic information is 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. *See generally 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).* Therefore, we conclude that, except for the front page information, the department may withhold case number 96-28233 from disclosure under section 552.108(a)(1). The remaining requested information, specifically, case numbers 93-27275, 95-7962, and 95-30530, must be released to the requestor.

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/alg

Ref.: ID# 110565

Enclosures: Submitted documents

cc: Ms. Irene Farias
125 E. Vine Avenue
McAllen, Texas 78501
(w/o enclosures)