



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 22, 1998

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

OR98-0218

Dear Mr. Pagan:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 112305.

The City of McAllen (the "city") received a request for information relating to case number 95-039523. You have released front page offense report information to the requestor. You assert that the remaining requested information is excepted from disclosure by section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note that some of the submitted documents are court records. Documents filed with the court are public documents and must be released. *See Star-Telegram, Inc. v. Walker*, 834 S.W.2d 54, 57-58 (Tex. 1992).

Section 552.108, the "law enforcement exception," provides in relevant part as follows:

- (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

Gov't Code § 552.108. Generally, a governmental body claiming an exception under section 552.108 must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the requested information would interfere with law

enforcement. See Gov't Code §§ 552.108(a)(1), (b)(1), .301(b)(1); see also *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). In your letter to this office, you state that the requested information concerns a case that is ongoing. You assert that "the case investigation is ongoing and therefore release of the information related to the investigation would interfere with the department's ability to properly investigate and/or prosecute the criminal activity involved in the records." However, you have submitted a form, the "Records Request of Information Form," which indicates that the prosecution of this case has concluded in a jury verdict of "30 yrs. TDC." Presuming that the prosecution of this case has concluded, we do not believe that you have shown under section 552.108(a)(1) that release of the requested information would interfere with the detection, investigation or prosecution of crime. Nor is the information protected from disclosure under section 552.108(a)(2); the investigation resulted in a conviction or deferred adjudication. You may not withhold the requested information under section 552.108.

Lastly, we note that the submitted information includes information that is made confidential by law and must not be released under section 552.130 of the Government Code. The Seventy-fifth Legislature added section 552.130 to the Open Records Act which governs the release and use of information obtained from motor vehicle records. Section 552.130 provides in relevant part as follows:

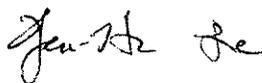
(a) Information is excepted from the requirement of Section 552.021 if the information relates to:

- (1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or]
- (2) a motor vehicle title or registration issued by an agency of this state[.]

Gov't Code § 552.130. Therefore, you must withhold the motor vehicle record information pursuant to section 552.130.

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,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/rho

Ref: ID# 112305

Enclosures: Submitted documents

cc: Ms. Dolores P. Mendoza
3517 Los Ebanos Road
Mission, Texas 78572
(w/o enclosures)