



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 3, 1998

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

OR98-0325

Dear Mr. Pagan:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. We assigned your request ID# 112669.

The City of McAllen Police Department received a subpoena from the 275th District Court for Hidalgo County, ordering the production to the plaintiff's attorney of all records pertaining to police file #95-27367. You have treated the subpoena as a request under the Texas Open Records Act, and have informed the plaintiff's attorney, by copy of a letter sent to this office, that the records are protected from disclosure under the Texas Open Records Act, chapter 552 of the Government Code. You specifically assert that section 552.108 protects the records from disclosure.

It is clear to this office, however, that the requested information is not being sought pursuant to the Open Records Act, but rather pursuant to the subpoena, a copy of which was sent to this office. Consequently, the appropriate forum for determining whether the information must be released is the court that issued the order. *See also* Gov't Code § 552.005. This office therefore declines to issue an open records ruling regarding this matter.

If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Ruth H. Soucy', written in a cursive style.

Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Enclosures: Submitted documents

Ref.: ID# 112669

cc: Mr. Felipe Garcia
P.O. Box 4513
McAllen, Texas 78502
(w/o enclosures)