



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 18, 1998

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

OR98-0459

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# 112618.

The City of McAllen (the "city") received a request for a copy of the documents relating to case number 97-35784. 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.

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. . . .

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). You state that "in this particular case, the case investigation is ongoing and therefore release of 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.” Therefore, we conclude that the city may withhold the information pursuant to section 552.108(a)(1) except for the front page offense information which must be released. *See* Gov’t Code section 552.108(c); Open Records Decision No. 127 (1976) at 5. We also note that the city has discretion 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 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,



Janet J. Monteros
Assistant Attorney General
Open Records Division

JIM/glg

Ref.: ID# 112618

Enclosures: Submitted documents

cc: Ms. Elizabeth Garza
2401 LaVista, # 47
McAllen, Texas 78501
(w/o enclosures)