



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 4, 1998

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

OR98-1400

Dear Mr. Pagan:

You ask whether certain information is subject to required public disclosure under the Open Records Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 116023.

The City of McAllen Police Department (the "city") received a request for an offense report referenced by number 97-27368. 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 submitted 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.

Section 552.108 of the Government Code reads as follows:

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

(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

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)*.

(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. Generally, a governmental body claiming an exception from disclosure under section 552.108(a)(1) 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. *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977).

You explain that “the case investigation is ongoing and therefore release of information related to the investigation would interfere with the [police] department’s ability to properly investigate and/or prosecute the criminal activity.” You also assert that the report at issue is excepted from disclosure, because the submitted records are “records or notations of a law enforcement agency or prosecutor that are maintained for internal use.” Presuming that the prosecution of this case is ongoing, we 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.

Although you indicate that the city has provided the requestor with front page offense report information, we note that a detailed description of the incident must be released as part of the basic information, generally included on the front page of an offense report. *Houston Chronicle*, 531 S.W.2d at 186-87. Thus, the city must provide the requestor with front page information, including detailed descriptions of the offense. The other information at issue may be withheld from disclosure pursuant to section 552.108(a)(1).

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, appearing to read "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# 116023

Enclosure: Submitted information

cc: Mr. Francisco De Leon
2501 West Nolana, Apt. J-2
McAllen, Texas 78504
(w/o enclosure)