



February 9, 1999

Ms. Lilia Ledesma
Assistant City Attorney
City of McAllen
P.O. Box 220
McAllen, Texas 78505-0220

OR99-0392

Dear Ms. Ledesma:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 122098.

The City of McAllen (the "city") received a request for specific offense reports relating to offenses at a specific location between January 1, 1993, and October 31, 1996. You seek to withhold the requested information under sections 552.101 and 552.108 of the Government Code.

Section 552.101 requires withholding, *inter alia*, information made confidential by statute. Prior to its repeal by the Seventy-fourth Legislature, section 51.14(d) of the Family Code provided as follows:

Except as provided by Article 15.27, Code of Criminal Procedure, and except for files and records relating to a charge for which a child is transferred under Section 54.02 of this code to a criminal court for prosecution, the law-enforcement files and records are not open to public inspection nor may their contents be disclosed to the public, but inspection of the files and records is permitted by:

- (1) a juvenile court having the child before it in any proceeding;
- (2) an attorney for a party to the proceeding; and
- (3) law-enforcement officers when necessary for the discharge of their official duties.

Despite the repeal of section 51.14(d), law-enforcement records pertaining to juvenile conduct that occurred prior to the effective date of the repeal continues to be confidential under that section. *See*, Acts 1997, 75th Leg., ch. 1086. We have marked one of the submitted offense reports, which pertains to juvenile conduct which occurred in 1993. You must withhold this report in its entirety under former section 51.14(d). We note that another of the submitted offense reports pertains to juvenile conduct which occurred in 1996. This

report is protected by neither section 51.14(d) nor the current provisions governing the release of juvenile records, section 58.007(c) of the Family Code, which took effect in 1997. Acts 1997, 75th Leg., ch. 1086. *See generally* Open Records Decision No. 644 (1996).

Section 552.108 of the Government Code excepts from required public disclosure

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . 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

(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 [and]

(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 . . . 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 [public disclosure] information that is basic information about an arrested person, an arrest, or a crime.

You advise that the investigations to which the requested offense reports pertain are ongoing and that the reports are thus excepted from disclosure under subsection (a) of section 552.108. You also assert that “the records are exempt for public disclosure under the corresponding provisions of section 552.108(b) in that they are also internal records or notations of a law enforcement agency or prosecutor that [a]re maintained for internal use in matters relating to law enforcement or prosecution.” We have examined the submitted reports. Particularly given the time frame of the requested reports, we do not believe that you have established either that release of the requested reports would interfere with law enforcement or that the reports are otherwise protected under section 552.108.

We do note that the requested reports contain information which must be withheld under section 552.130 of the Government Code, which provides in relevant part:

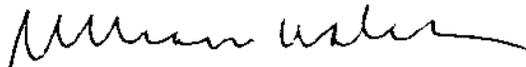
(a) Information is excepted from [required public disclosure] if the information relates to:

- (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[.]

The city must withhold drivers license and license plate number information made confidential under section 552.130. Except as noted above, the requested information must be released.

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,



William Walker
Assistant Attorney General
Open Records Division

Ref.: ID# 122098

Enclosures: Submitted documents

cc: Mr. John C. Holmgreen, Jr.
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(w/o enclosures)