



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

June 4, 1997

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

OR97-1289

Dear Mr. Pagan:

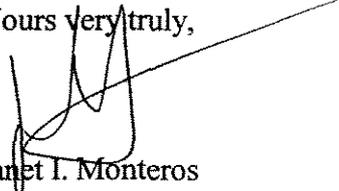
You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 106124.

The City of McAllen (the "city") received a request for a Fire Incident Report and Investigation Report for a certain fire incident. You state that the city has released the front page offense report information. You now assert that the remaining portions of the Fire Incident Report are excepted from required public disclosure based on section 552.108 of the Government Code.

Section 552.108 excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime," and "[a]n 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." Gov't Code § 552.108; *see Holmes v. Morales*, 924 S.W.2d 920 (1996). We note, however, that information normally found on the front page of an offense report is generally considered public. *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). However, in instances involving the investigation of a fire, this office has recognized in the context of *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977) that the production of basic factual information pertaining to the fire must be produced, but information in an active arson file such as the names and statements of witnesses, the "opinions and conclusions of the fire marshal's investigators regarding witnesses, suspects, statements made by persons questioned, and the investigators' opinion as to the motive for an intentionally set fire," and tests performed by investigators to determine how the fire was started, the materials used in starting it, and who started it, should remain undisclosed. *See* Open Records Decision No. 371 (1983) at 3. Consequently, section 552.108 provides that you may withhold the remaining information from disclosure, although you may choose 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 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,



Janet I. Monteros  
Assistant Attorney General  
Open Records Division

JIM/glg

Ref.: ID# 106124

Enclosures: Submitted documents

cc: Mr. Richard L. Benson  
Premier Claims Investigations, Inc.  
5497 Jeas Nursery Road  
Conroe, Texas 77304  
(w/o enclosures)