



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

July 15, 1997

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

OR97-1613

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# 107751.

The McAllen Police Department (the "department") received an open records request for all records pertaining to a referenced police report. You state that you have released the "front page offense report information" to the requestor in accordance with *Houston Chronicle Publishing Company 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). You seek to withhold other portions of the offense report and other responsive records held by the department pursuant to 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 (Tex. 1996). Because the information at issue comes within the purview of section 552.108, we conclude that most of this information may be withheld under this section.

We note, however, that some of the documents submitted to this office appear to consist of public court records. The "law enforcement" exception was not intended by the legislature to shield from public view information in the hands of police units that, absent special law enforcement needs or circumstances, would ordinarily be available to the public if possessed by a different governmental unit. Open Records Decision No. 287 (1981) at 2.

We therefore conclude that to the extent that the records at issue consist of public court records, those records must be released to the requestor. The department may withhold, however, all of the remaining information.<sup>1</sup>

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,



Yen-Ha Le  
Assistant Attorney General  
Open Records Division

YHL/RWP/rho

Ref.: ID# 107751

Enclosures: Submitted documents

cc: Mr. Kenneth Crews  
312 Nolana Loop  
McAllen, Texas 78504  
(w/o enclosures)

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<sup>1</sup>Although section 552.108 authorizes you to withhold the remaining information from disclosure, you may choose to release all or part of the information at issue that is not otherwise confidential by law. See Gov't Code § 552.007.