Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 14, 1997

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

OR97-2282

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# 109812.

The City of McAllen (the "city") received a request for a copy of an incident report and addendum. You state that "if appropriate, the City has already released the 'front page' offense report information," but assert that the remainder of the requested information is excepted from disclosure pursuant to section 552.108 of the Government Code. We have considered your argument and have reviewed the information submitted.

As amended, section 552.108, the "law enforcement exception," provides in part:

> (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; (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.

See Act of June 1, 1997, H.B. 951, §1, 75th Leg., R.S. (to be codified at Gov't Code § 552.108).

Upon review of the information submitted, we have determined that it is related to a pending criminal prosecution. Therefore, we find that release of the requested information would interfere with the detection, investigation, or prosecution of crime and thus, it is excepted from disclosure under section 552.108.[1]

We note, however, that information normally found on the front page of an offense report is generally considered public. *See generally* Gov't Code § 552.108(c); *Houston Chronicle Publishing 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). Thus, you must release the types of information that are considered to be front page offense report information, including a detailed description of the offense, even if this information is not actually located on the front page of the offense report. 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.

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,

Michael A. Pearle
Assistant Attorney General
Open Records Division

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[1]We note that the records at issue implicate a juvenile suspect. Prior to its repeal by the 74th Legislature, section 51.14(d) of the Family Code provided for the confidentiality of juvenile law enforcement records, and law-enforcement records pertaining to conduct occurring before January 1, 1996, are governed by the former section 51.14(d), which was continued in effect for that purpose. This office has concluded, however, that section 58.007 of the Family Code, as enacted by the 74th Legislature, did not extend confidentiality to juvenile law enforcement records relating to conduct that occurred on or after January 1, 1996. Open Records Decision No. 644 (1996). Although the 75th Legislature amended section 58.007 to once again make juvenile law-enforcement records confidential, effective September 1, 1997, it chose not to make this most recent amendment retroactive in application. Consequently, law-enforcement records pertaining to juvenile conduct that occurred between January 1, 1996 and August 31, 1997, are not subject to the confidentiality provisions of either section 51.14(d) or section 58.007 of the Family Code.

Ref.: ID# 109812

Enclosures: Submitted documents

cc: Mr. J.C. Chapa
P.O. Box 720730
McAllen, Texas 78504
(w/o enclosures)