



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 30, 1998

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

OR98-0290

Dear Mr. Pagan:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. We assigned your request ID# 112218.

The City of McAllen (the "city") received a request for the offense report and photographs of an assault victim. We note that none of the requested photographs were submitted to this office, but based upon your letter to the requestor, it is our understanding that you seek to withhold the photographs and any other records pertaining to the reported assault. You submitted to this office a copy of the offense report, which we assume was submitted as a representative sample of the records at issue.¹ You assert that the requested information is excepted from disclosure pursuant to section 552.108 of the Government Code.

Section 552.108(a)(1) provides an exception from disclosure for information that is held by a law enforcement agency or prosecutor and that deals with the detection, investigation, or prosecution of crime, when release of such information would interfere with the detection, investigation, or prosecution of crime. You explain that there is a pending criminal prosecution concerning the incident. Since there is a pending criminal prosecution, we agree that you have shown that the release of most of this information would interfere with the prosecution of crime. *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

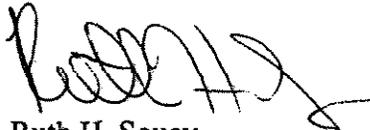
¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision No. 499 (1988), 497 (1988). Here, we do not address any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

S.W.2d 559 (Tex. 1976). (court delineates law enforcement interests that are present in active cases); *see* Open Records Decision No. 216 (1978) at 3 (release of information during pending criminal case would interfere with prosecution of crime and law enforcement interests).

However, you must release the front page offense report information to the requestor. Gov't Code § 552.108(c) (basic information may not be withheld from disclosure.) We note that even though you released most of the front page offense report information to the requestor, you did not provide a detailed description of the offense. *See* Open Records Decision No. 127 (1976) at 5. The remaining information may be withheld from disclosure under section 552.108(a)(1), though the city also has discretion to release all or part of this information that is not otherwise confidential by law. 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,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Enclosures: Submitted documents

Ref.: ID# 112218

cc: Ms. Rosario Uresti
2616 West Carnation
McAllen, Texas 78501
(w/o enclosures)