



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 23, 1998

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

OR98-0776

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# 113797.

The City of McAllen (the "city") received a request for an "assault report" case number 97-39984. You assert that the reports, except for front page offense report information, is excepted from disclosure on the basis of section 552.108. 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 indicate that there is a pending criminal case concerning the incident that it is the basis of the report. Since there is a pending criminal prosecution, we agree that you have shown that release 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 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).

You indicate that the city has provided the requestor with front page offense report information. Section 552.108 provides that basic offense report information is not protected from disclosure under section 552.108. Basic information is the type of information that is generally included on the front page of an offense report, including a detailed description of the incident. *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177, 186-87 (Tex. Civ. App.--Houston [15th Dist.] 1975), *writ ref'd n.r.e. per curiam*, S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). You initially submitted to this office what

appears to be front page offense information, except that it does not contain a detailed description of the offense. *See* Open Records Decision No. 127 (1976) at 5. We note that front page information is generally found on the front page of an offense report, however, its location is not determinative and it must be released regardless of where it is located. To determine what information must be released, the type of information must be examined rather than where it is located. *See* Open Records Decision No. 127 (1976) at 5. Thus, the city must provide the requestor with front page information, including a detailed description of the offense. The other records at issue may be withheld from disclosure pursuant to section 552.108(a)(1).¹

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,



Janet I. Monteros
Assistant Attorney General
Open Records Division

JIM/glg

Enclosures: Submitted documents

Ref.: ID# 113797

cc: Ms. Lin Amy
505 W. Xanthisma Ave.
McAllen, Texas 78504-2790
(w/o enclosures)

¹We also note that the city has discretion to release all or part of the remaining information that is not otherwise confidential by law. Gov't Code § 552.007.