



August 19, 1999

Lieutenant Arturo Valdez
Center Record Division
City of McAllen Police Department
1501 Pecan Boulevard
McAllen, Texas 78501

OR99-2348

Dear Lieutenant Valdez:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 128326.

The McAllen Police Department (the “department”) received a request for a certain police report. You claim that the requested information is excepted from disclosure under section 51.14 of the Family Code and section 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

You contend that the police report is made confidential by section 51.14(d) of the Family Code. Section 552.101 of the Government Code protects “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Section 552.101 encompasses confidentiality provisions in the Family Code. Section 51.14(d) of the Family Code makes confidential juvenile law enforcement records relating to delinquent conduct or conduct indicating a need for supervision. The report you have submitted does not involve records of a juvenile engaging in delinquent conduct or conduct indicating a need for supervision. Therefore, section 51.14(d) does not apply to the record at issue.

You also contend that the information is protected by section 552.108(a)(1) of the Government Code, which provides:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]

Gov’t Code § 552.108.

Generally, a governmental body claiming an exception under section 552.108 must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the requested information would interfere with law enforcement. *See* Gov't Code §§ 552.108(a)(1), (b)(1), .301(b)(1); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You explain that the investigation is ongoing. The offense report involves a theft offense that occurred in July 1992. The statute of limitations for theft is five years from the date of the commission of the offense. Code Crim. Proc. art. 12.01(4)(A). You have not explained how or why release of the requested information would interfere with the investigation of an offense for which the statute of limitations has run. Thus, because you have not shown the applicability of section 552.108(a)(1), we conclude that you may not withhold the requested information under section 552.108(a)(1).

You also assert that section 552.108(b) excepts the requested records from public disclosure as they are internal records or notations of a law enforcement agency or prosecutor that are maintained for internal use in matters relating to law enforcement or prosecution. Again, we conclude that you have failed to establish the applicability of section 552.108(b). You may not withhold the requested information under section 552.108(b).

Section 552.130 of the Public Information Act governs the release and use of information obtained from motor vehicle records. Section 552.130 provides in relevant part as follows:

(a) Information is excepted from [required public disclosure] if the information relates to:

(1) a motor vehicle operator's or driver's license or permit issued by an agency of this state[.]

Gov't Code § 552.130. You must withhold the driver's license number under section 552.130. The remaining information must be released.

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.

Sincerely,



Sue M. Lee
Assistant Attorney General
Open Records Division

SML\nc

Ref: ID# 128326

Encl: Submitted documents

cc: Ms. Cristina Torress
729 Douglas Drive
Pharr, Texas 78577
(w/o enclosures)