



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 24, 1996

Mr. Stephen R. Alcorn
Assistant City Attorney
City of Grand Prairie
P.O. Box 534045
Grand Prairie, Texas 75053-4045

OR96-0598

Dear Mr. Alcorn:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 39066.

The Grand Prairie Police Department (the "department") received a request for information seeking "all police reports detailing the homicide, statements taken from family members, friends, and associates of the victim, Adrienne Jones, and reports on the suspect in the case, Bryan McMillen, of Mansfield, who was charged with murder and later released." You assert that the information is excepted from required public disclosure under sections 552.103 and 552.108 of the Government Code. You have submitted for our review a representative sample of the documents at issue.¹

Section 552.108 excepts from disclosure:

- (a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . [and;]

¹In reaching our conclusion here, we 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 Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

- (b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement.

When applying section 552.108, this office distinguishes between cases that are still under active investigation and those that are closed. Open Records Decision No. 611 (1992) at 2. In cases that are still under active investigation, section 552.108 excepts from disclosure all information except that generally found on the first page of the offense report. See generally *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). Once a case is closed, information may be withheld under section 552.108 only if its release "will unduly interfere with law enforcement or crime prevention." See *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977); Attorney General Opinion MW-446 (1982); Open Records Decision Nos. 444 (1986), 434 (1986).

You state that the requestor has been provided copies of the probable cause affidavit, the first page of the offense report, and the press releases distributed by the department. You explain that these are the only documents that have been publicly released by the department. You state that this case remains under active investigation. Therefore, with the exception of information generally found on the first page of an offense report, the city may withhold the requested documents under section 552.108.²

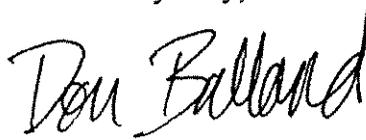
Basic information includes the location of the incident, time of occurrence, and a description of the incident. *Id.* at 2. In *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177, 186-87 (Tex. Civ. App.--Houston [15th Dist.] 1975), writ *ref'd n.r.e. per curiam*, S.W.2d 559 (Tex. 1976), the court identified certain types of information which are public. Although this information is generally found on the first page of an offense report, its location is not determinative. 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. We have enclosed a summary of the types of information considered public which must be disclosed.³

²As we resolve this matter under section 552.108, we need not address your contention that section 552.103 excepts the requested information from required public disclosure.

³Although not submitted to this office for review, you refer to the medical examiner's report in your correspondence. Autopsy reports prepared by a medical examiner are public records by statute. Code Crim. Proc. art. 49.25 § 11; Open Records Decision No. 529 (1989).

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,



Don Ballard
Assistant Attorney General
Open Records Division

JDB/rho

Ref.: ID# 39066

Enclosures: Submitted documents
Summary of Open Records Decision No. 127

cc: Ms. Holly Mullen
Dallas Observer
P.O. Box 190289
Dallas, Texas 75219-0289
(w/ Summary of ORD No. 127)