



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

June 26, 1998

Mr. John Steiner  
Division Chief  
City of Austin  
P.O. Box 1546  
Austin, Texas 78767-1546

OR98-1541

Dear Mr. Steiner:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 116358.

The City of Austin received a request for all investigation records pertaining to death of Mr. Rodney Paul Wickware. You indicate that "first page' information copy, press releases, newspaper articles and the Medical Examiner's Report have been released." You claim that the remaining requested information is excepted from required public disclosure by sections 552.101, 552.103, 552.108, and 552.119 of the Government Code. We have considered the exceptions you claim and have reviewed the sample documents that you have submitted.<sup>1</sup>

Section 552.108 of the Government Code 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;

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<sup>1</sup>In 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.

(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;

(B) reflects the mental impressions or legal reasoning of an attorney representing the state.

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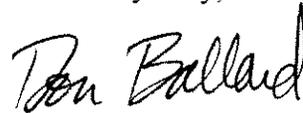
(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

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 requested "records pertain to a pending criminal investigation." You have also provided a letter from a Travis County Assistant District Attorney who indicates that review of this case has not been completed and that "[t]here remains a possibility that the case may be presented to the Travis County Grand Jury for their review." We believe that you have shown that the release of the requested information would interfere with the detection, investigation or prosecution of crime. We conclude that the requested information may be withheld under section 552.108(a)(1). *See 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); Open Records Decision No. 216 (1978). We note, however, that information normally found on the front page of an offense report is generally considered public. *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); Open Records Decision No. 127 (1976). Thus, you must release the type of information that is considered to be front page offense report information, even if this information is not actually located on the front page of the offense report. Gov't Code § 552.108(c); *see* Open Records Decision No. 127 (1976) (summarizing the types of information deemed public by *Houston Chronicle*).

Because we make a determination under section 552.108, we do not consider your additional arguments against disclosure. We note, however, that some of the requested

information may be confidential by law. Thus, if you receive a subsequent request when section 552.108 is no longer applicable, you should reassert your arguments against disclosure at that time. Gov't Code § 552.352 (distribution of confidential information is a criminal offense). 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/ch

Ref: ID# 116358

Enclosures: Submitted documents

cc: Mr. Randall Roberts  
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(w/o enclosures)