



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 7, 1998

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

OR98-0902

Dear Mr. Steiner:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 114266.

The Austin Police Department (the "department") received an open records request for a particular offense report. In your request for an open records decision, you argue that the requested information was excepted from required public disclosure pursuant to sections 552.103 and 552.108 of the Government Code because the requested offense report "relates to two pending criminal prosecutions . . . set for hearing on January 26, 1998."

Your letter to this office requesting an open records decision was dated February 3, 1998, more than a week after the scheduled court date. Consequently, you did not demonstrate, and it was not apparent to this office, that the criminal prosecutions were still pending at the time of your request. This office therefore has no basis on which to conclude that sections 552.103 or 552.108 apply to the requested information.

Additionally, our office notified you on February 10, 1998 by letter sent via facsimile that we needed additional information as to the current status of the criminal prosecution. See Gov't Code § 552.301(b). We requested that you provide this information to our office within seven days from the date of receiving the notice. Because you did not respond to our notice, we conclude that, based on the information before us, you have not met your burden of establishing the applicability of either section 552.103 or 552.108. Consequently, the requested records must be released in their entirety.

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,

A handwritten signature in black ink that reads "Don Ballard". The signature is written in a cursive, slightly slanted style.

Don Ballard
Assistant Attorney General
Open Records Division

JDB/RWP/ch

Ref.: ID# 114266

Enclosures: Submitted documents

cc: Mr. Justin McMurtrey
1071 Clayton Lane, Apt. 1201
Austin, Texas 78723
(w/o enclosures)