



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 30, 1998

Mr. Ajay R. Shah
Assistant City Attorney
Criminal Law & Police Division
1500 Marilla
Dallas, Texas 76201

OR98-3275

Dear Mr. Shah:

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# 120991.

The Dallas Police Department (the "department") received an open records request for the affidavit for an arrest warrant pertaining to a particular alleged assault.¹ You seek to withhold the requested information pursuant to section 552.108 of the Government Code.

Section 552.108(a)(1) of the Government Code exempts from required public disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]" Because you have informed us that the records at issue pertain to a pending criminal prosecution, we conclude that you have met your burden of establishing that the release of the requested information at this time could interfere with law enforcement. The department therefore may withhold most of the information at issue at this time pursuant to section 552.108(a)(1).²

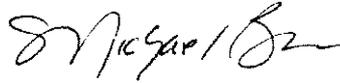
¹Although you have submitted additional documents to this office as responsive to the request, we limit this ruling to the actual information requested.

²In reaching this conclusion, we assume that the arrest warrant affidavit is not contained among public court records. If the affidavit has been filed with a court, the department must release this record in its entirety. See Open Records Decision No. 287 (1981) ("law enforcement" exception not intended to protect information that would ordinarily be available to public if possessed by a different governmental unit). Cf. *Star-Telegram v. Walker*, 834 S.W.2d 54 (Tex. 1992) (information contained in public court records not protected by common-law privacy).

Section 552.108 does not, however, except from required public disclosure "basic information about an arrested person, an arrest, or a crime." Gov't Code § 552.108(c). The department therefore must release these types of information from the arrest warrant affidavit in accordance with *Houston Chronicle Publishing Company 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).

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,



Michael J. Burns
Assistant Attorney General
Open Records Division

MJB/RWP/nc

Ref.: ID# 120991

Enclosures: Submitted documents

cc: Mr. Lee Moses
P.O. Box 28072
Dallas, Texas 75228
(w/o enclosures)