



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 17, 1995

Ms. Detra G. Hill
Assistant City Attorney
Criminal Law and Police Division
City of Dallas
501 Police & Courts Building
Dallas, Texas 75201

OR95-282

Dear Ms. Hill:

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# 33078.

The City of Dallas (the "city") received a request for copies of the "warrants, affidavits, and returns" relating to Laraine Gabrielle Bush. Ms. Bush was arrested for engaging in organized crime, indicted, and her case is set for April 27, 1995. You state that an investigation is proceeding against Ms. Bush. You contend that the information requested includes records of law enforcement agencies that deal with the investigation, detection, and prosecution of crimes. You have submitted copies of the warrant, the affidavit supporting the warrant, and the related prosecution report to us for review. You contend that the information requested is excepted from disclosure under section 552.108 of the Government Code.

Section 552.108(a) provides that "[a] record of a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime" is excepted from disclosure. Section 552.108 applies to the records created by an agency whose primary function is to investigate crimes and to enforce the criminal laws. Open Records Decision Nos. 493 (1988) at 2, 287 (1981) at 2. Section 552.108 excepts from required public disclosure all information related to cases under active investigation, except certain basic information ordinarily appearing on the first page of an offense report and in other records of law enforcement relating to arrests. As a general rule, information

which may be withheld is evidentiary information including: a) information identifying witnesses; b) the summary of a confession; c) an investigator's views regarding the guilt of a suspect or the credibility of witnesses; and d) records of property confiscated at the scene of the crime. Open Records Decision No. 127 (1976). The names and statements of witnesses may be withheld if it is determined that, from the examination of the facts of the particular case, disclosure might either subject the witnesses to possible intimidation or harassment or harm the prospects of future cooperation between witnesses and law enforcement officers. Open Records Decision No. 297 (1981).

The kinds of basic information not excepted from disclosure by section 552.108 include the following information about the crime: a) the name, age, address, race, sex, occupation, alias, and physical condition of the person; b) the location of the crime; c) the identification and description of the complainant; d) the premises involved; the time of the occurrence of the crime; and e) a detailed description of the offense. *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) at 4.

After reviewing the warrant, we conclude that you may withhold the arrest warrant under section 552.108, as the warrant concerns an ongoing criminal investigation. Open Records Decision Nos. 313 (1982), 287 (1981). A review of the printout you supplied indicates, though, that some of the information provided is public. You must disclose the information such as that listed in *Houston Chronicle Publishing Co.*, however, the remainder of the information you may withhold pursuant to section 552.108 of the Government Code.¹ Additionally, we conclude that the affidavit supporting the warrant may be withheld from the requestor based upon section 552.108.

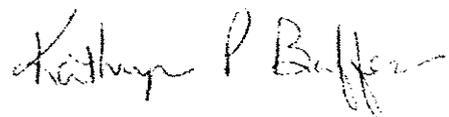
The city also includes as a document for our review a copy of the initial prosecution report. We find no mention of this document in the request for information. Because no request was made for the police report, we do not address the applicability of the Open Records Act to this document and whether it is excepted from disclosure.

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 may not be relied upon as a previous determination under section 552.301 regarding any other records.

¹In so ruling, we assume that any of the information not of the kind which is held to be public under *Houston Chronicle Publishing Co.* does not appear in court records. See *Star Telegram v. Walker*, 836 S.W.2d 54 (Tex. 1992) (no privacy interest in information found in public court documents).

If you have questions about this ruling, please contact our office.

Yours very truly,



Kathryn P. Baffes
Assistant Attorney General
Open Government Section

KPB/KHG/rho

Ref.: ID# 33078

Enclosures: Submitted documents

cc: Mr. Fred Daugherty
Daugherty Investigations, Inc.
P.O. Box 280750
Dallas, Texas 75228-9350
(w/o enclosures)