



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

May 12, 1995

Ms. Tracy R. Briggs  
Assistant City Attorney  
City of Houston  
Legal Department  
P.O. Box 1562  
Houston, Texas 77251-1562

OR95-276

Dear Ms. Briggs:

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# 30562.

The Houston Police Department (the "department") received an open records request for, among other things, certain witness statements and information pertaining to a polygraph examination that were taken during the department's investigation of a sexual assault. You seek to withhold the requested information pursuant to section 552.108 of the Government Code.<sup>1</sup>

Section 552.108 of the Government Code, known as the "law enforcement" exception, exempts from required public disclosure:

(a) A record of a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . ;  
[and]

(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 . . . .

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<sup>1</sup>Because we resolve your request under section 552.108, we need not address the applicability of section 552.103.

Traditionally, when applying section 552.108, our office has distinguished 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, this section excepts from required public disclosure all information except that generally found on the first page of the offense report. *See generally* Open Records Decision No. 127 (1976) (citing *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)). You have submitted to this office an affidavit attesting to the fact that the department's investigation of the assault is still active. Accordingly, the department may withhold the requested information in its entirety pursuant to section 552.108 at this time.

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 under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay  
Assistant Attorney General  
Open Government Section

LRD/RWP/rho

Ref.: ID# 30562

Enclosures: Submitted documents

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(w/o enclosures)