



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 21, 1995

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

OR95-1566

Dear Ms. Calabrese:

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# 30988.

The Houston Police Department (the "department") received an open records request for "all incident reports and/or offense reports and follow-up reports . . . pertaining to" six specific incident report numbers. Except for certain information specifically held to be public in *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 seek to withhold the requested information pursuant to section 552.108 of the Government Code.

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
- (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

Gov't Code § 552.108. 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). You have submitted to this office an affidavit attesting to the fact that the department's investigation of the six cases is still active. Accordingly, the department may withhold the information at issue pursuant to section 552.108.¹

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# 30988

Enclosures: Submitted documents

cc: Ms. Jacqueline A. Spika
Sifford & Anderson, L.L.P.
6300 NationsBank Plaza
901 Main Street
Dallas, Texas 75202
(w/o enclosures)

¹Because we resolve your request under section 552.108, we need not address your other claims regarding these records.