



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 27, 1996

Ms. Lan Nguyen
Assistant City Attorney
City of Houston
P.O. Box 1562
Houston, Texas 77251-1562

OR96-2266

Dear Ms. Nguyen:

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# 102074.

The Houston Police Department (the "department") received an open records request for the complete "investigative file" pertaining to a certain sexual assault. You state that the department will release to the requestor the "Public Release" portions of the "information report." See *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 remaining portions of the requested report pursuant to section 552.108 of the Government Code.

Section 552.108 excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime," and "[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution." Gov't Code § 552.108; see *Holmes v. Morales*, 924 S.W.2d 920 (Tex. 1996). Because the information that you seek to withhold comes within the purview of section 552.108, we conclude that the department may withhold the information under this section. Although section 552.108 authorizes the department to withhold this information from disclosure, the department may choose to release all or part of the information at issue that is not otherwise confidential by law.¹ See Gov't Code § 552.007.

¹We note that certain information contained in police reports pertaining to investigations of sexual assaults may be deemed confidential under section 552.101 of the Government Code. See, e.g., Open Records Decision Nos. 393 (1983), 339 (1982). Because the requestor is acting on behalf of the assault victim, however, the requested information here may not be withheld from the requestor on these grounds. Gov't Code § 552.023 (requestor has special right of access to information implicating only requestor's privacy interests).

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,



Don Ballard
Assistant Attorney General
Open Records Division

JDB/RWP/ch

Ref.: ID# 102074

Enclosures: Submitted documents

cc: Mr. Jeffrey L. McMinn
Legal Investigator
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(w/o enclosures)