



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 23, 1998

Ms. E. Cary Grace
Assistant City Attorney
City of Houston
Legal Department
P.O. Box 1562
Houston, Texas 77251-1562

OR98-0236

Dear Ms. Grace:

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# 112982.

The Houston Police Department (the "department") received two open records requests for a particular offense report pertaining to an alleged sexual assault. You contend that, except for the categories of information specifically made public in *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), the requested information is excepted from required public disclosure pursuant to section 552.108 of the Government Code.

Section 552.108(a) of the Government Code, as amended by the 75th Legislature, excepts from required public disclosure

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime;

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication; or

(3) it is information that:

(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or

(B) reflects the mental impressions or legal reasoning of an attorney representing the state.

You state that although the department's investigation of the sexual assault is considered inactive at this time, the department will continue its investigation upon the receipt of new information. Because you have informed us that the records at issue pertain to a pending criminal investigation, 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 or prosecution. You therefore may withhold the information at issue at this time pursuant to section 552.108(a)(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 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/RWP/rho

Ref: ID# 112982

Enclosures: Submitted documents

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