



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 28, 1995

Ms. Cathy B. Campbell
Director, Legal Services
Texas Department of Mental Health
and Mental Retardation
P.O. Box 12668
Austin, Texas 78711-2668

OR95-899

Dear Ms. Campbell:

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# 35034.

The Texas Department of Mental Health and Mental Retardation received two requests for information relating to a department management review audit of Tropical Texas Center. You contend that some of the requested information is excepted from required public disclosure under section 552.108 of the Government Code.

You state that the Texas Department of Public Safety ("DPS") is conducting a criminal investigation into the Tropical Texas Center. You also inform us that DPS has requested that the department withhold the requested documents, and you have submitted a letter from David Douglas which details the reasons for withholding the requested documents. Where an incident involving allegedly criminal conduct is still under active investigation or prosecution, any proper custodian of information which relates to the incident may invoke section 552.108. Open Records Decision Nos. 474 (1987), 372 (1983). Accordingly, you may withhold the requested information at this time under section 552.108 of the Government Code.

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,



Kay H. Guajardo
Assistant Attorney General
Open Government Section

KHG/LBC/rho

Ref: ID# 35034

Enclosures: Submitted documents

cc: Mr. Glen D. Mangum
Law Offices of Glen D. Mangum
105 S. St. Mary's Street, Suite 2108
San Antonio, Texas 78205
(w/o enclosures)

Mr. Jim Wright
NewsWest 9 KWES-TV
P.O. Box 60150
Midland, Texas 79711
(w/o enclosures)