



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 11, 1997

Ms. Kate Herrington
Open Records Coordinator
Texas Department of Mental Health
and Mental Retardation
P.O. Box 12668
Austin, Texas 78711-3761

OR97-1358

Dear Ms. Herrington:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 106646.

The Texas Department of Mental Health and Mental Retardation received a request for the documentation concerning the firing and severance package of two employees at the Tropical Texas Center. The requestor also seeks the law or regulation used to determine alleged illegality. We note that the Open Records Act does not require a governmental body to answer factual questions or to perform legal research. Open Records Decision Nos. 563 (1990); 555 (1990). You state that some of the requested documents are excepted from required public disclosure by sections 552.107 and 552.108 of the Government Code. We have considered the exception you claim and have reviewed the submitted documents you seek to withhold.

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." This exception may be invoked by the proper custodian of information relating to an investigation or prosecution of criminal conduct. *Holmes v. Morales*, 924 S.W.2d 920 (Tex. 1996); Open Records Decision No. 474 (1987) at 4-5; see Open Records Decision No. 586 (1991) (need of another governmental body to withhold information may provide compelling reason for nondisclosure). You have submitted a letter from David Douglas an assistant chief with the Texas Department of Public Safety (the "department"). He explains that there is a pending criminal investigation concerning the Tropical Texas Center. He asks that any documents related to the department's investigation be withheld. We have reviewed the

information you seek to withhold. We agree that the information may be withheld from disclosure under section 552.108. *Holmes v. Morales*, 924 S.W.2d 920 (Tex. 1996).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,



Don Ballard
Assistant Attorney General
Open Records Division

JDB/ch

Ref: ID# 106646

Enclosures: Submitted documents

cc: Mr. Marion Shirah
1112 S. 9th Street
Edinburg, Texas 78539
(w/o enclosures)

¹As the information at issue may be withheld from disclosure pursuant to section 552.108, we need not address your other arguments against disclosure. Further, the requestor argues that the information he seeks "has nothing to do with a criminal investigation." Disputed questions of fact, however, are not resolvable in the open records process, and therefore, the attorney general must rely on the representations of the governmental body requesting our opinion. Open Records Decision Nos. 609 (1992), 554 (1990).