



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 8, 2009

Mr. Reg Hargrove
Assistant Attorney General
Public Information Coordinator
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

OR2009-09423

Dear Mr. Hargrove:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 348455 (PIR No. 09-24831).

The Office of the Attorney General (the "OAG") received a request for information about "complaints against Lovett Dental, Monarch Dental, Castle Dental, Mr. Jack Castle, Dr. Larry Earl Freeman, Dr. Samantha Sandra Bousigues, Dr. Kent Ziegenbein, Dentist Choice 1 L.P., Texas Dental Associates P.A. 1, and any other entity connected to these businesses and individuals." The OAG states it released some information and asserts the remainder is excepted from disclosure under sections 552.101, 552.108, 552.130, 552.136, 552.137, and 552.147 of the Government Code. We have considered the OAG's claimed exceptions to disclosure and have reviewed the submitted sample of information.¹

¹We assume the representative sample of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

Section 552.108(a) excepts from disclosure “[i]nformation 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.” Gov’t Code § 552.108(a)(1). Generally, a governmental body claiming section 552.108 must reasonably explain how and why release of the requested information would interfere with law enforcement. ~~See id. § 552.301(e)(1)(a); see also~~ *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). In this instance, the OAG argues release of Exhibit B, which relates to current investigations by its Medicaid Fraud Control Unit, will compromise the investigation. Based on the OAG’s representation and our review of the records, we agree the OAG may withhold Exhibit B under section 552.108(a)(1). See *Houston Chronicle Publ’g 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) (court delineates law enforcement interests that are present in active cases).

Next, the OAG seeks to withhold Exhibit C under section 552.108(a)(2), which excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. The OAG explains Exhibit C pertains to a case that has concluded and did not result in conviction or deferred adjudication. Based on the OAG’s representation, we conclude the OAG may withhold Exhibit C pursuant section 552.108(a)(2).

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov’t Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle Publ’g Co.* Thus, with the exception of the basic front page offense and arrest information, the OAG may withhold the information from disclosure based on section 552.108(a).² We note the OAG has the discretion to release all or part of the information that is not otherwise confidential by law. *Id.* § 552.007.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information

²Because section 552.108 is dispositive, we do not address the OAG’s other arguments.

under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/sdk

Ref: ID# 348455

Enc: Submitted documents

c: Requestor
(w/o enclosures)