



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

August 31, 1998

Mr. Vernon M. Arrell  
Commissioner  
Texas Rehabilitation Commission  
5900 North Lamar Blvd.  
Austin, Texas 78751-2399

OR98-2067

Dear Mr. Arrell:

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# 117743.

The Texas Rehabilitation Commission (the "commission") received a request for all non-confidential information pertaining to or involving Tangram Rehabilitation Network, Inc. ("Tangram"). You explain that Tangram has provided rehabilitation services to commission clients in the past. However, the commission no longer refers clients to Tangram because of alleged violations of licensing standards and client abuse at Tangram's Sequin, Texas facility. You claim that the requested information concerning Tangram is excepted from required public disclosure by sections 552.101, 552.103, 552.108, and 552.111 of the Government Code. We have considered the exceptions you claim and have reviewed the documents you have submitted.

You argue that all of the requested information may be withheld under section 552.108 of the Government Code. Section 552.108 provides:

(a) Information held by a law enforcement agency or prosecutory that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 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 die 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;

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

(b) An 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 is excepted from the requirements of Section 552.021 if:

(1) release of the internal record or notation would interfere with law enforcement or prosecution;

(2) the internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication; or

(3) the internal record or notation:

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

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

(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

Section 552.108 may be invoked by the proper custodian of information relating to an investigation or prosecution of criminal conduct. Open Records Decision No. 474 at 4-5 (1987). The Texas Department of Human Services (the "department") investigated allegations of abuse at Tangram and referred the matter to the Guadalupe County District Attorney. You have provided this office with the indictments returned against two individuals who worked at the Tangram facility. The pending charges against the employees are several counts of injury to a disabled individual. You also explain that the department shared some of the investigation material with the commission upon the understanding that the commission would release information only with the approval of the district attorney.

You state that the commission has been in contact with the district attorney's office about the request for information. You indicate that the District Attorney has specifically

asked the commission not to release any of its information related to Tangram. You have provided us with a letter from the District Attorney where he asks that no information regarding Tangram be released. He states that there are ongoing criminal investigations and prosecutions involving the conduct of Tangram employees. He relates that "[r]elease of your investigations to the public could seriously compromise those prosecutions and/or investigations." 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); Open Records Decision No. 216 (1978) (interference with detection, investigation, or prosecution of crime in active, pending criminal cases). We have reviewed the information you seek to withhold. We agree that the requested information may be withheld from disclosure under section 552.108. See Open Records Decision No. 586 (1991) (need of another governmental body to withhold information may provide compelling reason for nondisclosure).

Because we make a determination under section 552.108, we do not address your additional arguments at this time. Some of the requested information, however, may be confidential. If you receive another request for the information, you should re-assert your arguments at that time. 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/nc

Ref: ID# 117743

Enclosures: Submitted documents

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