



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 11, 1996

Mr. Charles H. Weir
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

OR96-0022

Dear Mr. Weir:

You have asked 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# 28460.

The City of San Antonio (the "city") received a request for a video tape or tapes recorded on June 1 and 2, 1994, at the city detention center. The requestor seeks video tapes showing a particular individual being held at the detention center, his cell, and "any persons providing care, questioning, and any contact." The city submitted to this office for review as responsive to the request a video tape of the holding cell corridor. You contend that this video tape is excepted from disclosure under section 552.103(a). To show the applicability of section 552.103(a), a governmental entity must show that (1) litigation is pending or reasonably anticipated and (2) the information at issue is related to that litigation. *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.--Houston [1st Dist.] 1984, writ ref'd n.r.e.); Open Records Decision No. 551 (1990) at 4.

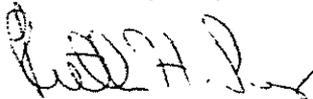
You have provided information showing that the city is involved in a pending wrongful death lawsuit concerning the circumstances of the death of this individual. Our review of the video tape at issue indicates it is related to the subject matter of the pending lawsuit. Thus, you have demonstrated the applicability of section 552.103(a).

In making this determination, we assume that the opposing parties in the pending lawsuit have not had access to the videotape at issue. Absent special circumstances, once information has been obtained by all parties to the litigation, for example, through discovery or otherwise, no section 552.103(a) interest exists with respect to that information. Open Records Decision No. 349 (1982) at 2. The applicability of section

552.103(a) also ends once the litigation has been concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982) at 3.

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,

A handwritten signature in cursive script, appearing to read "Ruth H. Soucy".

Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref.: ID# 28460

Enclosures: Submitted videotape

cc: Mr. Rolando Vera
Investigator
105 South St. Mary's Street, Suite 905
San Antonio, Texas 78205
(w/o enclosures)