



Office of the Attorney General
State of Texas

March 14, 1996

DAN MORALES
ATTORNEY GENERAL

Ms. Detra G. Hill
Assistant City Attorney
Supervisor, Criminal and Police Division
City of Dallas
Office of the City Attorney
City Hall
Dallas, Texas 75201

OR96-0335

Dear Ms. Hill:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 30778.

The City of Dallas (the "city") received a request for information concerning the shooting of a particular individual. Specifically, the request asks for copies of the following:

- 1) copies of the policy and procedure of the Dallas Police Department regarding the use of deadly force;
- 2) any and all records including investigative reports, pertaining to the file or shooting of Erick Williams by Officer McDaniel; and
- 3) any internal affairs documents regarding the shooting or investigation of the shooting of Erick Williams.

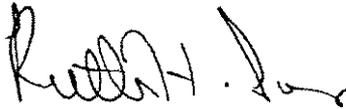
You have submitted for our review copies of the requested information. You assert that the requested information relates to litigation of a civil nature or settlement negotiations to which the city is a party. You also assert that the requested information is exempted from required public disclosure under section 552.103(a) of the Government Code.

To secure the protection 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. The city must meet both prongs of the test for information to be excepted under section 552.103(a). We have reviewed the documents. However, based on the information provided, we are unable to determine if the submitted documents relate to pending or reasonably anticipated litigation. Specifically, you have not submitted any written arguments explaining the reasons why section 552.103 of the Gov't Code applies. Thus, the city has not met its burden of showing that litigation is pending and the information at issue may not be withheld pursuant to section 552.103(a).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,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/SAB/ch

Ref.: ID# 30778

Enclosures: Submitted documents

cc: Mr. Yusuf Abdullah
The Law Office of Yusuf Abdullah
4144 N. Central Expressway
Suite 220
Dallas, Texas 75204
(w/enclosure ORD No. 638 (1996))

¹You made no other arguments against disclosure, however, if you believe that portions of responsive documents contain information otherwise made confidential by law, you should specifically mark those portions and seek a decision from this office concerning those portions.