



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 28, 1996

Ms. J. Sage White
Assistant City Attorney
City of Austin
P.O. Box 1088
Austin, Texas 78701

OR96-0433

Dear Ms. White:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 35886.

The City of Austin (the "city") received a request for the personnel file of a certain police officer. The city seeks to withhold the requested information from required public disclosure pursuant to section 552.103 of the Government Code.

Section 552.103(a) applies to information:

(1) relating to litigation of a civil or criminal nature or settlement negotiations, to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person's office or employment, is or may be a party; and,

(2) that the attorney general or the attorney of the political subdivision has determined should be withheld from public inspection.

To secure the protection of section 552.103(a), a governmental body must demonstrate that requested information "relates" to a pending or reasonably anticipated judicial or quasi-judicial proceeding. Open Records Decision No. 588 (1991). In this instance you have made the requisite showing that the requested information relates to pending

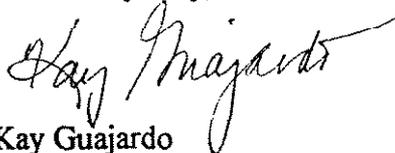
litigation for purposes of section 552.103(a). The requested records may therefore be withheld.

We note that if the opposing party in the litigation have seen or had access to any of the information in these records, there would be no justification for now withholding that information from the requestor pursuant to section 552.103(a). Open Records Decision Nos. 349 (1982), 320 (1982). In addition, the applicability of section 552.103(a) generally ends once the litigation has concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).

Finally, we agree that the file contains information that is protected from required public disclosure pursuant to section 552.101 of the Government Code, an exception that applies to information that is deemed confidential by law. See Open Records Decision No. 600 (1992), Gov't Code § 552.117. The city must withhold the confidential information to which section 552.101 applies after section 552.103 is no longer applicable.

We are resolving this matter with this 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 may 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,



Kay Guajardo
Assistant Attorney General
Open Records Division

KHG/ch

Ref.: ID# 35886

Enclosures: Submitted documents

cc: Mr. Bob Clark
6205 Reicher
Austin, Texas 78725
(w/o enclosures)