



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 16, 1996

Mr. Carlos J. Garza
Assistant City Attorney
500 South Kansas
Weslaco, Texas 78596

OR96-0551

Dear Mr. Garza:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 39551.

The City of Weslaco (the "city") received a request for a copy of its police manual.¹ You contend that the manual is excepted from required public disclosure in its entirety under section 552.103 of the Government Code.

Section 552.103(a) excepts from disclosure information relating to litigation to which a governmental body is or may be a party. The governmental body has the burden of providing relevant facts and documents to show that section 552.103(a) is applicable in a particular situation. In order to meet this burden, the governmental body 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 state that the requestor and a co-plaintiff filed suit against the city and several of its employees. You have provided us with a copy of the pleadings filed by the plaintiffs and thereby established the pendency of litigation to which the city is a party. You contend that "[t]he requests being made are on their face related to the subject matter of the litigation." We agree that portions of the police manual are on their face related to the pending litigation. We conclude that you may withhold those portions of the manual under section 552.103. However, having reviewed the plaintiffs' pleadings and other

¹The city received several other requests from the same requestor, and you submitted copies of those requests to us. However, you raise no objections to disclosing the information responsive to the other requests. Therefore, we assume that you have responded to the other requests for information, and that you have submitted copies of the other requests to us for informational purposes only.

documents you submitted to us, we are unable to ascertain how most sections of the police manual are related to the litigation. Because you provide us with no further information to sustain your contention that such a relationship exists, we conclude that you may not withhold these apparently unrelated sections of the manual from disclosure under section 552.103. We have marked the manual accordingly.²

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,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/ch

Ref.: ID# 39551

Enclosures: Marked documents

cc: Mr. Jeff C. Riviera
413 B Old Business Hwy. 83
Weslaco, Texas 78596
(w/o enclosures)

²We note that if the opposing parties in the pending litigation have seen or had access to any of the information in the police manual, 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) ends once the litigation has been concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982). Of course, the city has discretion to release those sections of the police manual that we have authorized the city to withhold under section 552.103(a).