



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 13, 1996

Mr. Riley J. Simpson
City Attorney
City of Copperas Cove
P.O. Drawer 1449
Copperas Cove, Texas 76522

OR96-0694

Dear Mr. Simpson:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 39906.

The City of Copperas Cove (the "city") received a request "to record a copy of the 911 tape from [a particular] rescue." You have submitted a copy of the requested tape to us for review. You contend that the tape is excepted from required public disclosure under section 552.103(a) of the Government Code.

Section 552.103(a) excepts from disclosure information relating to litigation to which the 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. Although you state that "there is potential litigation," you have not provided us with any information to show that the city reasonably anticipates litigation. You have not met your burden under section 552.103(a), and therefore the requested information is not excepted from disclosure under section 552.103(a). Consequently, the city must release the tape to the requestor.

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# 39906

Enclosures: Submitted tape

cc: Ms. Kara Neely
KXXV Channel 25
P.O. Box 2525
Waco, Texas 76702
(w/o enclosures)