



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 6, 1996

Mr. Alberto J. Pena
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

OR96-1603

Dear Mr. Pena:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 35348.

The City of San Antonio (the "city") received a request for the "police policy manual procedure sections that deal with methods of restraint to use on someone who is under the influence of cocaine and a medical emergency" and "procedures concerning the use of hog-tying as a method of restraint" that were in force on November 26, 1994.¹ You contend that section 552.103(a) protects the responsive records from disclosure.

Section 552.103(a) provides an exception for information relating to litigation to which the governmental body is or may be a party. To secure the protection of section 552.103(a), a governmental body must demonstrate 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 to this office information showing that the city has been sued. Our review of the records at issue shows that the requested records are related to the pending litigation. Thus, you may withhold from disclosure the records at issue.

¹You also submitted to this office an offense report and an emergency medical service form. As the requestor did not ask for this information, we assume the documents were sent for informational purposes only.

We note that, absent special circumstances, once information has been obtained by the opposing party to the anticipated litigation, 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 generally ends when the litigation is concluded. Attorney General Opinion MW-575 (1982) at 2; Open Records Decision Nos. 350 (1982) at 3; 349 (1982) at 2.²

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,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref.: ID# 35348

Enclosures: Submitted documents

cc: Mr. Jesse Castillo
Castillo & Nieto
NationsBank Plaza, 25th Floor
300 Convent Street
San Antonio, Texas 78205
(w/o enclosures)

²Because you may withhold the records at issue under section 552.103(a), we need not at this time address your arguments under section 552.108.