



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 12, 1996

Ms. Doreen E. McGookey
Assistant City Attorney
Criminal Law and Police Division
Office of the City Attorney
501 Police & Courts Bldg.
Dallas, Texas 75201

OR96-1652

Dear Ms. McGookey:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 100590.

The City of Dallas (the "city") received a request for the following information:

- (1) Reports of all traffic accidents involving police officers on and off duty between May of 1994 and May of 1996.
- (2) Discipline reports in each and every case.
- (3) Cost of each accident and total cost to taxpayers.
- (4) Any and all still pictures of the accidents.
- (5) Any and all video of accidents and scenes.

You claim that some of the requested information, a representative sample of which you have submitted to this office,¹ is related to pending litigation and is, therefore, excepted

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any

from disclosure under section 552.103 of the Government Code. We assume that you have released to the requestor all of the information that you do not believe is excepted from disclosure under section 552.103.

Section 552.103(a) excepts from required public disclosure 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.

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.

Several individuals who were involved in traffic accidents with police officers have filed lawsuits against the city as a result of those accidents. The information at issue consists of the city police department's internal investigations of these accidents, and, therefore, the information relates to these lawsuits. Accordingly, the city may withhold the information from disclosure pursuant to section 552.103(a).

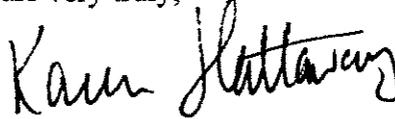
We note that once all parties to litigation have gained access to the information at issue, through discovery or otherwise, section 552.103(a) is no longer applicable. Open Records Decisions Nos. 551 (1990), 454 (1986). Further, once the litigation has concluded, section 552.103(a) is no longer applicable. Open Records Decision No. 350 (1982). Of course, the city has discretion to release information that is not confidential by law. Gov't Code § 552.007.

(Footnote continued)

other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

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# 100590

Enclosures: Submitted documents

cc: Ms. Christi O'Connor
KTVT
Fax: (817) 457-8054
(w/o enclosures)