



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

November 21, 1996

Mr. Edwin V. Allen  
Assistant City Attorney  
City of Abilene  
P.O. Box 60  
Abilene, Texas 79604

OR96-2158

Dear Mr. Allen:

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# 102490.

The City of Abilene (the "city") received a request for information concerning a certain police officer. You assert that the requested information is excepted from required public disclosure based on Government Code section 552.103 and have submitted a representative sample of the information the city seeks to withhold from disclosure.<sup>1</sup> You inform us that, in accordance with Local Government Code section 143.089, the city submitted no samples of the requested information from the police department's personnel file. *See* Local Gov't Code § 143.089(g) (police "department may not release any information contained in the department [personnel] file[s] to any agency or person requested information relating to a fire fighter or police officer"); *City of San Antonio v. Texas Attorney Gen.*, 851 S.W.2d 946 (Tex. App.--Austin 1993, writ denied).

Section 552.103(a) of the Government Code reads as follows:

(A) Information is excepted from [required public disclosure] if it is information:

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<sup>1</sup>In reaching our conclusion here, we 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) (where requested documents are numerous and repetitive, governmental body should submit representative sample; but if each record contains substantially different information, all must be submitted). This open records letter does not reach and, therefore, does not authorize the withholding of any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

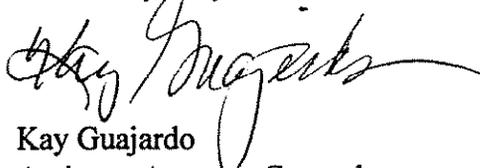
(1) relating to litigation of a civil or criminal nature or settlement negotiations, to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person's office or employment, is or may be a party; 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). Consequently, the city may withhold the requested records from the requestor based on section 552.103(a).<sup>2</sup>

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/rho

Ref.: ID# 102490

Enclosures: Submitted documents

cc: Mr. Malcolm C. Barrow  
3242 Nonesuch Road  
Abilene, Texas 79606  
(w/o enclosures)

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<sup>2</sup>If the opposing party in the litigation has 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) ends once the litigation is concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).