



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 12, 1996

Ms. Eileen S. Begle
Assistant County Attorney
1001 Preston, Suite 634
Houston, Texas 77002-1891

OR96-2373

Dear Ms. Begle:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 36797.

Harris County ("the county") received a request for a copy of the disciplinary records of a particular police officer. You have submitted to this office for review records responsive to the request. You assert that the documents are excepted from required public disclosure pursuant to section 552.103 of the Government Code.¹

Section 552.103(a), the "litigation exception," excepts from disclosure information relating to litigation to which the state is or may be a party. The district attorney has the burden of providing relevant facts and documents to show that the section 552.103(a) exception is applicable in a particular situation. The test for meeting this burden is a showing 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 this office information showing that litigation is reasonably anticipated. You have also provided this office with a representative sample of the records at issue.² We believe that the county has met its burden under section 552.103(a) of showing that the records at issue are related to anticipated litigation. Therefore, the requested information may be withheld from disclosure pursuant to section 552.103(a).³

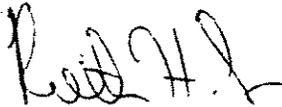
¹We need not to address your 552.102 exception because 552.103 is applicable to the records at issue.

²We 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 No. 499 (1988)*. Here, we do not address any other requested records to the extent that those records

³Generally, the applicability of section 552.103(a) ends if the other party to the anticipated litigation obtains the information or when the litigation concludes. *Attorney General Opinion MW-575 (1982) at 2*; *Open Records Decision Nos. 350 (1982) at 3, 349 (1982) at 2*. However, if any of the information at issue is made confidential by other law, it may not be disclosed even after the litigation has concluded.

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 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,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/SAB/ch

Ref.: ID# 36797

Enclosures: Submitted documents

cc: Mr. Randy Schaffer
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(w/o enclosures)