



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 16, 1997

Mr. Mark E. Dempsey
Assistant City Attorney
City of Garland
P.O. Box 469002
Garland, Texas 75046-9002

OR97-2058

Dear Mr. Dempsey:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 108679.

The City of Garland (the "city") received a request for an incident report concerning the accidental drowning of a child. You contend that the report is excepted from disclosure under section 552.103(a) of the Government Code. You submitted to this office for review a copy of the report at issue.

Section 552.103(a) excepts from disclosure information relating to litigation to which a 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. In Open Records Letter No. 97-1963 (1997), this office determined that the city has not met its burden of showing that litigation is reasonably anticipated in this situation. Thus, the requested information may not be withheld from disclosure under section 552.103(a).

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 any questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref: ID# 108679

Enclosures: Submitted documents and videotape

cc: Mr. Gerald Colca
Investigative and Information Services
4010 Fairmont Parkway, Box 271
Pasadena, Texas 77504
(w/o enclosures)