



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 17, 1997

Mr. Matthew R. Scott
Cooper, Aldous & Scully
Founders Square
900 Jackson Street, Suite 100
Dallas, Texas 75202

OR97-2078

Dear Mr. Scott:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 108839.

The City of Ennis Police Department (the "city"), which you represent, received a request for information pertaining to two police officers. You claim that the requested information is excepted from required public disclosure under section 552.103 of the Government Code. We have considered your arguments and reviewed the submitted sample of records.¹

To be excepted under section 552.103, the city 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 argue that the requested information is related to a pending lawsuit. You have submitted a copy of the petition showing that litigation is pending and have also demonstrated that the requested information relates to the pending litigation. Thus, you may withhold the information pursuant to section 552.103.

¹In 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). 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.

In reaching this conclusion, however, we assume that the opposing parties to the litigation have not had access to the records at issue. Absent special circumstances, once information has been obtained by all parties to the litigation, no section 552.103 interest exists with respect to that information. Open Records Decision Nos. 349 (1982), 320 (1982). We also note that section 552.103(a) no longer applies once the litigation has concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).

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 on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/rho

Ref.: ID# 108839

Enclosures: Submitted documents

cc: Ms. Diane K. Shaw
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(w/o enclosures)