



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 19, 1998

Mr. James T. Jeffrey, Jr.
Remington & Jeffrey
1306 W. Abram
Arlington, Texas 76013-1711

OR98-1237

Dear Mr. Jeffrey:

You have asked whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 115068.

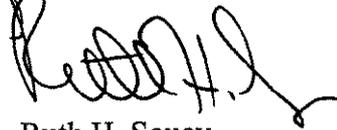
The City of Lancaster (the "city"), which you represent, received a request for a videotape that shows several police officers and a suspect. You submitted the videotape that you represent is responsive to this request for information, and assert that this videotape is protected from disclosure under section 552.103(a) of the Government Code. To show that section 552.103(a) is applicable, a governmental entity must show that (1) litigation is pending or reasonably anticipated and (2) the information at issue is related to the 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. A governmental entity must meet both prongs of this test for information to be excepted under section 552.103(a).

You assert that there is a pending federal civil rights suit against the city, in which it is alleged that the police have a pattern or custom of civil rights abuses. Thus, the city has shown that litigation is pending. We have reviewed the videotape, which you contend is "directly related to [the plaintiff's] lawsuit theory that his civil rights were violated, and that the violation was part of a pattern of similar incidents." Based upon the information you have provided this office, we agree that the city has shown the applicability of section 552.103(a) to the submitted videotape, which may be withheld from disclosure.¹

¹We note that the applicability of section 552.103(a) ends 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,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref.: ID# 115068

Enclosures: Submitted documents

cc: Mr. Michael Wayne Washington
1521 Becky Lane
Lancaster, Texas 75134
(w/o enclosures)