



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

July 31, 1998

Mr. Merrill E. Nunn  
City Attorney  
City of Amarillo  
Legal Department  
P.O. Box 1971  
Amarillo, Texas 79105-1971

OR98-1817

Dear Mr. Nunn:

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# 117030.

The City of Amarillo Police Department (the "department") has received a request for records related to allegedly unauthorized charges made by the department for performing criminal history checks under the "Brady Law," 18 U.S.C. § 922(g)(1), (n). The requestor is an attorney. As you note, the requestor's letters include demands that the department 'cease and desist from charging fees' and threatens to include department in litigation if it does not enter into settlement negotiations for refunds of past fees. You ask if you may withhold the requested records under Government Code section 552.103.

Section 552.103(a), known as the litigation exception, excepts from required public disclosure information

(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.

We have considered your arguments and reviewed the documents at issue. We conclude that you have sufficiently demonstrated that litigation may reasonably be anticipated in this matter. *See e.g.* Open Records Decision No. 452 (1986). Therefore you may withhold the requested information under section 552.103 at this time.

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,



William Walker  
Assistant Attorney General  
Open Records Division

WMW/ch

Ref.: ID# 117030

Enclosures: Submitted documents

cc: Mr. Stephen P. Halbrook  
Attorney at Law  
10560 Main Street, Suite 404  
Fairfax, Virginia 22030  
(w/o enclosures)