



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 16, 1998

Mr. Dennis P. Duffy
General Counsel
University of Houston System
E. Cullen Building, Room 212
Houston, Texas 77204-2162

OR98-3161

Dear Mr. Duffy:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 120729.

The University of Houston – Downtown (the “university”) received a request for information relating to an incident that took place in a university elevator on September 18, 1997. You contend that the requested information is excepted from disclosure under sections 552.103 and 552.108 of the Government Code. We have considered the exceptions you claim and have reviewed the information at issue.

Initially, we note that front page offense report information is generally considered public and cannot be withheld from disclosure pursuant to either section 552.103 or 552.108. *See Gov’t Code § 552.108(c); Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision Nos. 597 (1991) (front page information may not be withheld under section 552.103), 127 (1976) (front page information may not be withheld under section 552.108). Therefore, the university must publicly disclose the front page offense report information.

We will consider the exceptions you claim for the remaining information at issue. Section 552.103(a) of the Government Code excepts from 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

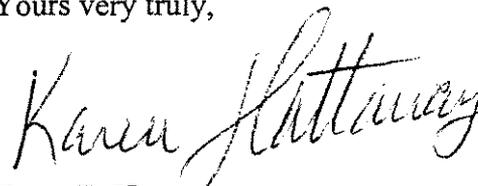
(2) that the attorney general or the attorney of the political subdivision has determined should be withheld from public inspection.

To secure the protection of section 552.103(a), a governmental body must demonstrate that requested information "relates" to a pending or reasonably anticipated judicial or quasi-judicial proceeding. Open Records Decision No. 551 (1990).

In Open Records Decision No. 638 (1996), this office stated that a governmental body may demonstrate that it reasonably anticipates litigation if it receives a notice of claim letter and represents to this office that the letter is in compliance with the requirements of the Texas Tort Claims Act, Civ. Prac. & Rem. Code, ch. 101, or an applicable municipal ordinance or statute. You state that the university received a notice of claim which is "in compliance with the Texas Tort Claims Act." The notice of claim alleges that the university is responsible for damages arising from the incident about which the requestor is seeking information. We conclude that the university reasonably anticipates litigation relating to the incident. Our review of the submitted information indicates that the information is related to the reasonably anticipated litigation. Thus, the university may withhold the information from disclosure pursuant to section 552.103(a).¹

Because we are able to resolve this matter under section 552.103, we do not address your section 552.108 claim. 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 questions about this ruling, please contact our office.

Yours very truly,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

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¹We note that if the opposing party in the anticipated litigation has seen or had access to the requested information, there would be no justification for withholding that information from disclosure pursuant to section 552.103(a). Open Records Decision Nos. 349 (1982), 320 (1982). In addition, 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).

Ref: ID# 120729

Enclosures: Submitted documents

cc: Mr. George M. Kirk
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(w/o enclosures)