

January 28, 1999

Ms. Tenley A. Aldredge  
Assistant County Attorney  
Travis County  
P. O. Box 1748  
Austin, Texas 78767



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OR99-0276

Dear Ms. Aldredge:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 121547.

The Travis County Sheriff's Office (the "sheriff's office") received a request for the names, driver's license numbers, dates of birth, and criminal histories of individuals who have received jail clearances through the sheriff's office in the last two years. You state that you have provided the requestor with a list of persons currently authorized to enter the Travis County jail. You contend that the remaining requested information is excepted from disclosure pursuant to sections 552.101, 552.103, and 552.130 of the Government Code. We have considered the exceptions you claim and have reviewed the information 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. *University of Tex. Law Sch. v. Texas Legal Found.*, 958 S.W.2d 479 (Tex. App.--Austin 1997, no pet.); *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 at 4 (1990). The governmental body must meet both prongs of this test for information to be excepted under 552.103(a).

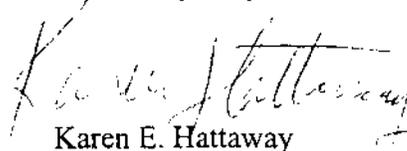
You have submitted pleadings from a lawsuit pending against the Travis County Sheriff in which the requestor is seeking injunctive relief for his client who has been denied access to the Travis County jail. We have reviewed these pleadings and agree that the information at issue is related to the pending lawsuit. Under these

circumstances, we conclude that the sheriff's office may withhold the information at issue from disclosure pursuant to section 552.103(a).

In reaching this conclusion, however, we assume that the opposing party in the litigation has not previously had access to the records at issue; absent special circumstances, once information has been obtained by all parties to the litigation, *e.g.*, through discovery or otherwise, no section 552.103 interest exists with respect to that information. Open Records Decision Nos. 349 (1982), 320 (1982). We also note that the applicability of section 552.103 ends once the litigation has been concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).

Because we are able to resolve this matter under section 552.103, we do not address your additional arguments against disclosure.<sup>1</sup> 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

KEH/ch

Ref: ID# 121547

Enclosures: Submitted documents

cc: Mr. Tim Tesch  
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(w/o enclosures)

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<sup>1</sup>We note that some of the information at issue may be confidential by law. Therefore, we urge you to exercise caution in releasing this information to the public once it is no longer excepted from disclosure pursuant to section 552.103. *See* Gov't Code § 552.352 (distribution of confidential information is criminal offense).