



April 14, 1999

Mr. Frank M. Crull
Assistant General Counsel
Texas Department of Public Safety
Box 4087
Austin, Texas 78773-0001

OR99-1017

Dear Mr. Crull:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 123934.

The Department of Public Safety (the "department") received a request for information pertaining to a shooting death. You assert that section 552.103(a) exempts from disclosure records that are responsive to the request. Section 552.103(a) of the Government Code reads as follows:

(a) Information is excepted from [required public disclosure] if it is 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 show the applicability of section 552.103(a), a governmental body must show that the governmental body itself or its officers or employees reasonably anticipate being parties to litigation or actually are parties to pending litigation. *See* Open Records Decision No. 575

(1990). You explain that Fort Bend County anticipates being sued over the shooting death and has asked the department not to release the information requested. However, you do not assert that the department holds the submitted records for Fort Bend County merely as an agent of Fort Bend County.¹ Nor have you asserted that the department or its officers and employees anticipate being a party to the anticipated litigation. Thus, you have not shown the applicability of section 552.103(a) to the requested records. You have not raised any other exceptions to public disclosure. The department therefore must release the requested records.

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.

Sincerely,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref: ID# 123934

encl. Submitted documents

cc: Mr. Pete T. Patterson
Hitt & Patterson
3838 Two Houston Center
909 Fannin
Houston, Texas 77010
(w/o enclosures)

¹We note that you submitted to this office for review “representative samples” of the information at issue. We assume that the records submitted to this office are truly representative of the requested records as a whole, and thus do not address any other records to the extent that they contain substantially different types of information than the records submitted to this office. See Open Records Decision No. 499 (1988), 497 (1988).