



June 1, 1999

Mr. John Steiner  
Division Chief  
City of Austin  
Law Department  
P.O. Box 1546  
Austin, Texas 78767-1546

OR99-1512

Dear Mr. Steiner:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 124525.

The City of Austin (the "city") received a request for records concerning a police investigation and traffic accident. The requestor specifically also seeks internal investigation reports. You assert that the records are protected from disclosure under section 552.103 and 552.108 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. *University of Texas 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 entity must meet both prongs of this test for information to be exempted under section 552.103(a). You have shown that litigation is reasonably anticipated and our review of the records at issue shows that they are related to the subject matter of the anticipated litigation.

However, you may not withhold from disclosure the front page offense report information. Open Records Decision No. 597 at 3 (1991). You may withhold the remaining records for which you assert the section 552.103(a) exception. Because the records at issue may be

withheld from disclosure under section 552.103(a), we need not address your section 552.108 argument. In making this determination, we assume that none of the records for which you assert section 552.103 protection has been obtained by the opposing party in the anticipated litigation. Once information has been obtained by all parties to the litigation, no section 552.103(a) interest generally exists with respect to that information. Open Records Decision Nos. 349 (1982), 320 (1982). We note that the applicability of section 552.103(a) also 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 upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ruth H. Soucy', with a stylized flourish at the end.

Ruth H. Soucy  
Assistant Attorney General  
Open Records Division

RHS/ch

Ref: ID# 124525

Encl. Submitted documents

cc: Mr. Matthew C. Kotzen  
The Law Office of David Komie  
6200 La Calma, Suite 110  
Austin, Texas 78752  
(w/o enclosures)