



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 24, 2010.

Ms. Elizabeth Lutton
Legal Advisor
Dallas County Sheriff's Department
133 Riverfront, LB-31
Dallas, Texas 75207-4313

OR2010-07511

Dear Ms. Lutton:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 380469.

The Dallas County Sheriff's Department (the "sheriff") received a request for a copy of a specified dash-cam recording. You claim the submitted information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.103 of the Government Code provides:

- (a) Information is excepted from [required public disclosure] if it is information relating to litigation of a civil or criminal nature 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.

...

(c) Information relating to litigation involving a governmental body or an officer or employee of a governmental body is excepted from disclosure under Subsection (a) only if the litigation is pending or reasonably anticipated on the date that the requestor applies to the officer for public information for access to or duplication of the information.

Gov't Code § 552.103(a), (c). A governmental body has the burden of providing relevant facts and documents to show the section 552.103(a) exception is applicable in a particular situation. The test for meeting this burden is a showing that (1) litigation was pending or reasonably anticipated on the date the governmental body received the request for information, and (2) the information at issue is related to that litigation. *See University of Tex. Law Sch. v. Tex. Legal Found.*, 958 S.W.2d 479, 481 (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). A governmental body must meet both prongs of this test for information to be excepted under section 552.103(a).

You provide documentation showing the submitted information pertains to a criminal case pending in the Justice of the Peace Court, Precinct 5-1, in Dallas County. We note, however, the sheriff is not a party to this litigation. In such a situation, we require an affirmative representation from the governmental body with the litigation interest that the governmental body wants the information at issue withheld from disclosure under section 552.103. However, you have not provided this office with an affirmative representation from any governmental body with a litigation interest that the governmental body wishes to withhold the submitted information pursuant to section 552.103. *See id.* § 552.301(e)(1) (requiring the governmental body to explain the applicability of the raised exception). Accordingly, the sheriff may not withhold any of the submitted information under section 552.103. As you raise no further exceptions against disclosure, the sheriff must release the submitted information.¹

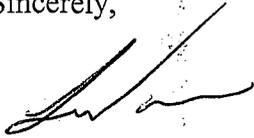
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free,

¹We note the requestor has a special right of access to the information being released in this instance. Because such information is confidential with respect to the general public, if the sheriff receives another request for this information from a different requestor, the sheriff must again seek a ruling from this office.

at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/eeg

Ref: ID# 380469

Enc. Submitted documents

c: Requestor
(w/o enclosures)