



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 17, 2012

Ms. Jennifer E. Bloom  
Senior Assistant General Counsel  
University of Houston System  
311 East Cullen Building  
Houston, Texas 77204-2028

OR2012-07412

Dear Ms. Bloom:

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# 453931.

The University of Houston (the "university") received a request for "the information (i.e. circumstances) under which" a former named university police officer "left his employment." You claim that 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 of the receipt of the request for information and (2) the information at issue is related to the pending or anticipated litigation. *Univ. 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 inform us, and provide documentation showing, that the university received the request for information after a lawsuit styled *Sabina Muhammed v. University of Houston*, Civil Action No. H-10-2382, was filed in the United States District Court for the Southern District of Texas, Houston Division. Based on your representations and our review, we find litigation involving the university was pending when it received the request. You also inform us that the submitted information is related to the subject matter of this pending litigation on the basis that the person to whom the information pertains testified as a witness during the internal university disciplinary hearing involving the requestor, and has relevant knowledge regarding the university's investigation of the requestor's alleged criminal conduct. Based on your representations and our review, we agree this information is related to the pending litigation for purposes of section 552.103. Accordingly, the university may withhold the submitted information under section 552.103 of the Government Code.

However, once information has been obtained by all parties to the litigation through discovery or otherwise, no section 552.103(a) interest exists with respect to that information. Open Records Decision Nos. 349 (1982), 320 (1982). Further, 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).

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](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, 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,

A handwritten signature in black ink that reads "Sean Opperman". The signature is written in a cursive, flowing style.

Sean Opperman  
Assistant Attorney General  
Open Records Division

SO/som

Ref: ID# 453931

Enc. Submitted documents

c: Requestor  
(w/o enclosures)