



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 14, 1994

Ms. Kathleen Henley
Assistant City Attorney
City of McAllen
P.O. Box 220
McAllen, Texas 78505-0220

OR94-549

Dear Ms. Henley:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, Government Code chapter 552. We assigned your request ID# 27525.

The City of McAllen (the "city") has received a request for certain statements taken in connection with an internal affairs investigation conducted by the city police department. Specifically, the requestor seeks the statements of Ramiro Gonzales, Alberto Mata, Anacleto Botello, Rudy Espinoza, Israel Saldivar, and E.A. Willingham "concerning their observations and understandings of the Chief's comments to Officer Shane Cameron on the drug case made the subject of Officer Cameron's lawsuit." You have submitted the requested information to us for review and claim that sections 552.101, 552.102, 552.103, and 552.111 of the Government Code except it from required public disclosure.

To secure the protection of section 552.103(a), a governmental body must demonstrate that requested information "relates" to a pending or reasonably anticipated judicial or quasi-judicial proceeding. Open Records Decision No. 551 (1990). In this instance you have made the requisite showing that the requested information relates to pending litigation for purposes of section 552.103(a). The requested records, therefore, may be withheld.

In reaching this conclusion, however, we assume that the opposing party to 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(a) interest exists with respect to that information. Open Records Decision Nos. 349, 320 (1982). If the opposing parties in the

litigation have seen or had access to any of the information in these records, there would be no justification for now withholding that information from the requestor pursuant to section 552.103(a). We also note that the applicability of section 552.103(a) ends once the litigation has been concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982). Because we resolve this matter under section 552.103(a), we need not address the applicability of the other claimed exceptions at this time.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,



Margaret A. Roll
Assistant Attorney General
Open Government Section

MAR/GCK/rho

Enclosures: Submitted documents

Ref.: ID# 27525

cc: Mr. Roberto M. Garcia
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(w/o enclosures)