



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 13, 1995

Mr. Quintin Cassady
Assistant General Counsel
University of North Texas
Health Science Center at Fort Worth
3500 Camp Bowie Boulevard
Fort Worth, Texas 76107-2699

OR95-590

Dear Mr. Cassady:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 32300.

The University of North Texas Health Science Center at Fort Worth (the "UNTHSC") received a request for copies of certain documents that reflect the job duties and responsibilities of a particular employee. You have submitted a representative sample of the requested records and claim that they are excepted from required disclosure pursuant to section 552.103 of the Government Code.

Section 552.103(a) excepts 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 be excepted under section 552.103(a), information must relate to litigation that is pending or reasonably anticipated. *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 (1990) at 4. You assert that the requested information relates to anticipated litigation between the requestor's client and UNTHSC. We agree. The submitted documents relate to an equal pay claim submitted to the university by the requestor's client. You may withhold the requested information pursuant to section 552.103 of the Government Code.

We assume, however, that the opposing party in the litigation has not had access to the requested information. 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). 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). Finally, the applicability of section 552.103(a) ends once the litigation has concluded.¹ 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 under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Government Section

LRD/LMM/rho

Ref.: ID# 32300

¹In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988) (where requested documents are numerous and repetitive, governmental body should submit representative sample; but if each record contains substantially different information, all must be submitted). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

Enclosures: Submitted documents

cc: Mr. Art Brender
Attorney at Law
500 Main at Fourth Street
Fort Worth, Texas 76102
(w/o enclosures)