



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

December 19, 1995

Ms. Mary Kay Fischer  
City Attorney  
City of Texarkana  
P.O. Box 1967  
Texarkana, Texas 75504

OR95-1488

Dear Ms. Fischer:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. We assigned your request ID# 29717.

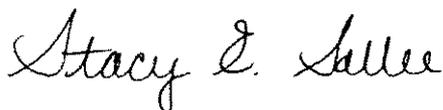
The City of Texarkana (the "city") has received a request for the employment applications of two city police officers, including "any employment applications, promotions, awards, training, reprimands, complaints, disciplinary actions, qualifications, educational background and other information relating to these individuals." You advise us that much of the requested information was addressed in Open Records Letter No. 94-149 (1994), in which this office concluded that the city could withhold the information under section 552.103(a) of the Government Code. You again assert that section 552.103(a) excepts from required public disclosure the information addressed in Open Records Letter No. 94-149 (1994). You also claim that section 552.103(a) excepts from required public disclosure any information that has come into being since the date of the request for information addressed in Open Records Letter No. 94-149 (1994).

To show the applicability of section 552.103(a), a governmental entity must show that (1) litigation is pending or reasonably anticipated in a judicial or quasi-judicial proceeding and (2) the information at issue is related to that litigation. *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. In this instance, you have demonstrated that litigation is pending and that the requested information is related to the pending litigation. The city has therefore met its burden of showing that the requested information relates to pending litigation for purposes of section 552.103(a).

We note, however, that, absent special circumstances, once all parties to the anticipated litigation have had access to the information at issue, no section 552.103(a) interest exists with respect to that information. Open Records Decision Nos. 349 (1982), 320 (1982). In addition, the protection afforded by section 552.103(a) ends once the litigation has concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982) at 3.

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,



Stacy E. Sallee  
Assistant Attorney General  
Open Records Division

SES/rho

Ref.: ID# 29717

Enclosures: Submitted documents

cc: Mr. Jeff Fletcher  
Attorney at Law  
219 West Broad  
Texarkana, Texas 75501-5628  
(w/o enclosures)