



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

February 10, 1997

Mr. L. Andy Paredes  
Assistant District Attorney  
Tarrant County  
401 W. Belknap  
Fort Worth, Texas 76196-0201

OR97-0310

Dear Mr. Paredes:

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# 103729.

The Tarrant County Sheriff's Department (the "department") received an open records request for all records and photographs pertaining to an incident of loose cattle on a public road. You seek to withhold the requested information pursuant to the "litigation exception," section 552.103 of the Government Code, because the requestor has threatened to sue the department over damage to his property caused by the cattle.

To secure the protection of section 552.103(a), a governmental body must demonstrate that the requested information relates to pending or reasonably anticipated litigation to which the governmental body is a party. Open Records Decision No. 588 (1991) at 1. The mere chance of litigation will not trigger section 552.103(a). Open Records Decision No. 452 (1986) at 4 and authorities cited therein. To demonstrate that litigation is reasonably anticipated, the governmental body must furnish concrete evidence that litigation involving a specific matter is realistically contemplated and is more than mere conjecture. *Id.*

It is well established that where a requestor has publicly stated on more than one occasion an intent to sue, these threats alone do not trigger section 552.103. Open Records Decision No. 331 (1982). *See also* Open Records Decision No. 351 (1982). Based on the limited facts before this office, we cannot conclude that you have met your burden in

establishing the likelihood of litigation in this particular instance.<sup>1</sup> Accordingly, the department may not withhold the requested information pursuant to section 552.103. Because you have raised no other Open Records Act exceptions to required public disclosure, we conclude that the department must release the requested information in its entirety.

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 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 Records Division

LRD/RWP/rho

Ref.: ID# 103729

Enclosures: Submitted documents

cc: Mr. Arnold F. Ward  
6464 Teague Road  
Fort Worth, Texas 76140  
(w/o enclosures)

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<sup>1</sup>Nor do you suggest that any criminal litigation is anticipated with regard to this matter.