



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

September 17, 1997

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

OR97-2080

Dear Mr. Cassady:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 108870.

The University of North Texas Health Science Center at Fort Worth (the "center"), received a request for nine categories of information pertaining to the requestor's employment in the custodial division. You claim that the requested information is excepted from required public disclosure under section 552.103 of the Government Code. We have considered your arguments and reviewed the submitted sample of records that are responsive to items 6 and 7 of the request.<sup>1</sup> As you have submitted only the records responsive to these two categories, we assume that you have released the remaining requested information to the requestor. If you have not done so, you must do so at this time. *See* Gov't Code §§ 552.301, .302.

To be excepted under section 552.103, the center must demonstrate that (1) litigation is pending or reasonably anticipated 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. You argue that the

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<sup>1</sup>In 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). 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.

requested information is related to a pending lawsuit, *Amos Howard v. University of North Texas Health Science Center at Fort Worth*, No. 4-97-CV-285-E (N.D. Tex. filed Oct. 10, 1996). You have submitted a copy of a motion from the case and demonstrated that the requested information relates to the pending litigation. Thus, you may withhold the information pursuant to section 552.103.

We note that the opposing party to the litigation has had access to some of the records at issue. Absent special circumstances, once information has been obtained by all parties to the litigation, no section 552.103 interest exists with respect to that information and must be released. Open Records Decision Nos. 349 (1982), 320 (1982). We also note that section 552.103(a) no longer applies once the litigation has concluded. 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 on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Yen-Ha Le  
Assistant Attorney General  
Open Records Division

YHL/rho

Ref.: ID# 108870

Enclosures: Submitted documents

cc: Mr. Amos Howard  
1004 E. Powell St.  
Fort Worth, Texas 76104  
(w/o enclosures)