



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 17, 1997

Mr. Larry P. McDougal
Attorney, Legal Advisor
City of Rosenberg Police Department
2120 Fourth Street
Rosenberg, Texas 77471-5124

OR97-2311

Dear Mr. McDougal:

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# 110157.

The City of Rosenberg (the "city") received a request for documents pertaining to police department investigations of named businesses. You contend, among other things, that the city may withhold the records pursuant to section 552.103(a) of the Government Code. 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 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 may therefore 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 no section 552.103(a) interest exists with respect to that information. Open Records Decision Nos. 349 (1982), 320 (1982). We also note that the applicability of section 552.103(a) ends once the litigation has concluded.¹

¹As we have determined that you may withhold the requested information under section 552.103, we do not address your other arguments for withholding the information.

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/rho

Ref.: ID# 110157

Enclosures: Submitted documents

cc: Mr. Logene Foster
Foster, Hoke & Foster
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Sugar Land, Texas 77487
(w/o enclosures)